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**DECLARATION OF PROTECTIVE COVENANTS
FOR
THE LAMBERT RANCH**

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THIS DECLARATION OF PROTECTIVE COVENANTS FOR The Lambert Ranch (this "Declaration") is made as of this 5th day of August, 1999 by Valley Development Group, LLC, a Colorado limited liability company, whose address is P. O. Box 336, Sedalia, Colorado 80135. (the "Declarant").

PREAMBLE

A. Declarant is the owner of certain real property located in Douglas County, Colorado which is described in Exhibit A attached hereto.

ARTICLE 1. COVENANTS

Section 1.1. Purposes. The primary purpose of this Declaration is to create a Common Interest Community to be known as The Lambert Ranch (the "Project" or "The Lambert Ranch") by submitting certain land located in Douglas, County Colorado, consisting of 923.44 acres, as more particularly described in Exhibit A and subject to those exceptions to title as set forth in Exhibit B attached hereto and in this Declaration (the "Property"), to the Planned Community form of ownership and use as set forth in the Colorado Common Interest Ownership Act, § 38-33.3-101, et seq., C.R.S. 1991, as amended (the "Act"). It is the intent of this Declaration to protect and enhance the value, desirability and attractiveness of The Lambert Ranch.

Section 1.2. Declaration. Declarant, for itself, for its successors and assigns, hereby submits the Property, together with all improvements, appurtenances and facilities, if any, relating to or located on the Property now and in the future, to Planned Community Ownership under the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights of way and other provisions of this Declaration, and Declarant hereby declares that all of the Property, and any property hereafter made subject to this Declaration, shall be held, sold, conveyed, encumbered, used, rented, occupied and improved subject to the provisions of this Declaration.

Section 1.3. Covenants Running with the Land. All provisions of this Declaration shall be deemed to be covenants running with the land, or equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and inure to the benefit of Declarant, all Owners (as defined below) and their respective heirs, executors, representatives, successors and assigns.

Section 1.4. Creation of this Common Interest Community under the Act. This Common Interest Community may be created pursuant to the Act only by recording this Declaration executed in the same manner as a deed, in the Records. The Douglas County Clerk and Recorder is directed to index this Declaration in the Grantee's Index in the name of this Common Interest Community

and in the name of the Association, and in the Grantor's Index in the name of Declarant. Further, this Common Interest Community shall not have been created until the Survey is recorded, as provided in the Act.

ARTICLE 2. DEFINITIONS

The following words, when used in this Declaration, shall have the meanings set forth below, unless the context expressly otherwise requires:

Section 2.1. Act. "Act" is the Colorado Common Interest Ownership Act as defined above in Section 1.1 hereof. In the event the Act is repealed, the Act, as it exists on the effective date of this Declaration, shall remain applicable to this Declaration.

Section 2.2. Allocated Interests. "Allocated Interests" means the Common Expense Liability and the votes allocated to each Parcel in the Project. The Allocated Interests and formulas to establish them are set forth in Article 3.

Section 2.3. Assessment. An "Assessment" means the annual, default and special assessments which may be levied against Owners pursuant to this Declaration.

Section 2.4. Association. The "Association" is The Lambert Ranch Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

Section 2.5. Board or Board of Directors. The "Board" or "Board of Directors" is the governing body of the Association, as provided in the Articles of Incorporation and Bylaws of the Association, in the Act, and in this Declaration.

Section 2.6. Budget. "Budget" shall mean a written, itemized estimate of the expenses (including any reserve funds) anticipated to be incurred, and the income anticipated to be received, by the Association, in performing its functions under this Declaration. The annual Budget shall be prepared as provided in Article 5.

Section 2.7. Building Envelope. "Building Envelope" is the portion of each Parcel as designated on the Survey which shall be the principal use area of each Parcel and shall include all buildings, corrals and structures, and may include accessory uses and improvements as set forth in this Declaration, the Design Standards, or the Survey. The portion of each Parcel which is located outside of the Building Envelope may be used for grazing livestock and may contain fences. The Building Envelope for each Tract shall consist of the area which is within a 200 foot radius of the centroid which has been placed on each Tract and is depicted on the Survey.

Section 2.8. Bylaws. "Bylaws" are the Bylaws adopted by the Association, or any instrument however denominated, which is adopted by the Association for the management of the Association, as may be supplemented and amended from time to time.

Section 2.9. Committee. The "Committee" is the Design Review Committee created in accordance with Article 7 hereof.

Section 2.10. Common Elements. "Common Elements" shall refer to portions of the Property in which the Association holds or owns a fee interest, an easement, or a leasehold interest, other than a Parcel. Tracts A, B and C, the non-exclusive 40 foot emergency access and utility easements and all utility easements shown on the Survey are Common Elements. Tract D, shown on the Survey, is a Limited Common Element.

Section 2.11. Common Expense Liability. "Common Expense Liability" is the liability allocated to each Parcel for Common Expenses pursuant to this Declaration.

Section 2.12. Common Expenses. "Common Expenses" are the expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, as more fully described in Article 6.

Section 2.13. Conservation Easement. The "Conservation Easement" is that certain Deed of Conservation Easement in Gross recorded ~~Aug. 12, 1999~~ in Book 1743 at Page 1339 of the Records affecting Tracts A, B and C identified on the Survey.

Section 2.14. Costs of Enforcement. "Costs of Enforcement" means all fees, fines, late charges, interest, expenses, costs, attorney's fees and disbursements incurred by the Association in connection with the collection of annual, special, and default Assessments or in connection with enforcement of the terms, conditions and obligations of the Project Documents.

Section 2.15. Declarant. Valley Development Group, LLC, a Colorado limited liability company and its successors and assigns is the "Declarant."

Section 2.16. Declaration. "Declaration" means this Declaration of Protective Covenants for The Lambert Ranch, together with all supplements and amendments, and any other recorded instrument however denominated which exercises a Development Right, executed by Declarant, or as otherwise permitted hereunder, and recorded in the Records. "Declaration" includes the Survey and any other survey, map or plat, if any, recorded with this Declaration or any amendments or supplements hereto without specific reference thereto.

Section 2.17. Design Standards. "Design Standards" are the rules and regulations as established from time to time and implemented by the Design Review Committee in accordance with the provisions of Articles 7 and 8 of this Declaration.

Section 2.18. Development Rights. "Development Rights" means Development Rights as set forth in Article 10 hereof.

Section 2.19. First Mortgagee. "First Mortgagee" means the holder of a Security Interest

in a Parcel which has priority over all other Security Interests in the Parcel, except those liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 2.20. Limited Common Elements. "Limited Common Elements" are those portions of the Common Elements which are limited to and reserved for use in connection with one or more, but fewer than all, of the Parcels. Tract D is a Limited Common Element and is allocated to Parcels 25, 26 and 32.

Section 2.21. Management Agreement. "Management Agreement" means any contract or arrangement entered into for the purpose of discharging the responsibilities of the Board relative to the operation, maintenance and management of the Project.

Section 2.22. Managing Agent. "Managing Agent" means a person, firm, corporation or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services on behalf of the Association.

Section 2.23. Occupant. "Occupant" means any member of an Owner's family, or an Owner's guest, invitee, servant, tenant, employee, or licensee who occupies a Parcel or is on the Common Elements for any period of time.

Section 2.24. Owner. "Owner" means the Declarant, or any other person who holds record title to a Parcel (including a contract seller, but excluding a contract purchaser) but excluding any person having a Security Interest in a Parcel unless such person has acquired record title to the Parcel pursuant to a foreclosure or any proceedings in lieu of a foreclosure. An Owner is a "unit owner" under the Act.

Section 2.25. Parcel. "Parcel" is a parcel of land shown on the Survey in which a physical portion of the Project is designated for separate ownership or occupancy. The boundaries of each Parcel are described in or determined by this Declaration or on the Survey. Each Parcel shall be designated by a separate number, address or combination thereof, that identifies only one Parcel in the Project as set forth on the Survey. The Parcels included in the Property have been designated on the Survey as Parcels 1 through 37. A Parcel is a Unit under the Act..

Section 2.26. Period of Declarant Control. The "Period of Declarant Control" is the period of time permitted in Section 4.6 of this Declaration, during which the Declarant may, at its option, control the Association.

Section 2.27. Project or The Lambert Ranch. The "Project" or "The Lambert Ranch" shall mean the Common Interest Community as defined in Section 1.1 of this Declaration.

Section 2.28. Project Documents. "Project Documents" shall mean the basic documents which create and govern the Project, including, without limitation, this Declaration, the Articles of Incorporation and Bylaws of the Association, any Rules and Regulations relating to the Project

adopted by the Association or the Board of Directors, and any Design Standards established by the Board.

Section 2.29. Property. "Property" is the real property described in Exhibit A.

Section 2.30. Purchaser. "Purchaser" is a person, other than Declarant, who by means of a transfer, acquires legal or equitable title to a parcel, other than a leasehold estate of less than forty years, or a Security Interest.

Section 2.31. Records. "Records" means the real estate records in the office of the Clerk and Recorder of Douglas County, Colorado.

Section 2.32. Rules and Regulations. "Rules and Regulations" means the rules and regulations promulgated by the Board for the management, safety, control and orderly operation of The Lambert Ranch for the purpose of effectuating the intent of this Declaration and to enforce the obligations set forth in the Project Documents, as the same may be amended and supplemented from time to time.

Section 2.33. Security Interest. "Security Interest" is an interest in personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, security deed, contract for deed, sales contract, lease intended as security, assignment of leases or rents intended as security, or any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest.

Section 2.34. Special Declarant Rights. "Special Declarant Rights" are those rights reserved by the Declarant in Article 9 hereof.

Section 2.35. Survey. The "Survey" means the survey of the Property prepared by Rocky Mountain Consultants, Inc. in accordance with the requirements of C.R.S. § 38-51-102 dated 6/11/98 and recorded in the Records immediately subsequent to this Declaration, including any amendments and supplements hereto, without specific reference thereto. The Survey is a "map" and a "plat" under the Act.

Section 2.36. Tract. A "Tract" is a parcel of land shown on the Survey in which a physical portion of the Project is designated for separate ownership or occupancy. The boundaries of each Tract are described in or determined by this Declaration or on the Survey. Each Tract shall be designated by a separate letter that identifies only one Tract in the Project as set forth in the Survey. Tracts A, B and C, are Common Elements. Tract D is a Limited Common Element and is allocated to Parcels 25, 26, and 32.

ARTICLE 3. ALLOCATED INTERESTS

Section 3.1. Allocation of Interests. The Allocated Interest assigned to each Parcel shall be .027, or when stated as a percentage of the whole, shall be rounded up to 2.7%, the total being deemed equal to 100% for purposes of this Declaration. These interests have been allocated in accordance with the formulas set out below. The formulas are to be used in reallocating interests if Parcels are added to the Project, or converted to Common Elements or Limited Common Elements.

Section 3.2. Formulas for Allocation of Interests. The interests allocated to each Parcel have been calculated on the following basis:

- A. Common Expenses Liability. The percentage of liability for Common Expenses for each Parcel is based on the total number of Parcels. Each Parcel in the Project shall share liability for Common Expenses equally. The Common Expense Liability for each Parcel shall be computed by multiplying the total amount to be raised by any Assessment for that year by a percentage (which may be rounded up to the nearest one-tenth of one percent (0.1%)) derived from a fraction, the numerator of which is one and the denominator of which is the total number of Parcels in the Project.
- B. Votes. Each Parcel in the Project shall have one equal vote. Any specified percentage, portion or fraction of Owners, unless otherwise stated in the Project Documents, means the specified percentage, portion or fraction of all the votes.

Section 3.3. Effective Date of Reallocation. The effective date for reallocating Allocated Interests to Parcels as a result of the exercise of Development Rights as set forth in Article 10 of this Declaration, below, shall be the date on which the amendment or supplement is recorded in the Records.

ARTICLE 4. MEMBERSHIP AND VOTING RIGHTS

Section 4.1. The Association. The Association's Articles of Incorporation as a Colorado nonprofit corporation were filed on 7/8/99. The Association shall have the duties, powers and rights set forth in this Declaration and in the Articles of Incorporation and Bylaws of the Association. The affairs of the Association shall be managed by a Board of Directors. The Board may, by resolution, delegate portions of its authority to committees, officers or agents and employees of the Association, but such delegation shall not relieve the Board of the ultimate responsibility for management of the affairs of the Association.

Section 4.2. Association Membership. Every Owner shall be a member of the Association and shall remain a member of the Association for the entire period of the Owner's ownership of a parcel. No Owner, whether one or more persons, shall have more than one membership per Parcel owned, but all of the persons or entities owning a parcel shall be entitled to rights of membership

and of use and enjoyment appurtenant to ownership of the Parcel. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Parcel. If title to a Parcel is held by a limited liability company, corporation, partnership, association or other legal entity, such entity shall by appropriate entity action designate a representative for such entity, and such representative shall have the power to cast the vote of the Owner as a member of the Association. In the absence of such a designation, the vote of a corporation may be cast by an officer of that corporation, the vote of a limited liability company may be cast by a manager of the limited liability company, and the vote of a partnership may be cast by a general partner of the partnership. If only one of the multiple Owners of a parcel is present at a meeting of the Association, such Owner is entitled to cast the vote allocated to that Parcel. If more than one of the multiple Owners of a Parcel are present, the Association may assume that any Owner who casts the vote allocated to that Parcel is entitled to do so unless one or more of the other Owners of the Parcel promptly protests to the person presiding over the meeting. If such protest is made, the vote allocated to the Parcel may only be cast by written instrument executed by all Owners of the Parcel present at the meeting. Votes allocated to a Parcel may be cast pursuant to a proxy duly executed by a Parcel Owner. If a Parcel is owned by more than one individual or entity, each Owner of the Parcel may vote or register protest to the casting of votes by the other Owners of the Parcel through a duly executed Proxy.

Section 4.3. Voting Rights and Meetings. Each Parcel in the Project shall have one vote, except that no votes allocated to a parcel owned by the Association, if any, may be cast. The total number of votes which may be cast in connection with any matter shall be equal to the total number of Parcels then existing within the Project. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Board of Directors, or by Owners having at least the percentage of votes specified in the Bylaws. Not less than fourteen and no more than fifty days in advance of any meeting, the secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States Mail to the notice address of each Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration, any budget changes, and any proposal to remove an officer or member of the Board of Directors. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast more than fifty percent of the votes of the Association are present, in person or by proxy, at the beginning of the meeting. In the event a quorum is not present at the beginning of the meeting, the meeting may be postponed to a later date or time and notice will be provided in accordance with the Bylaws. Unless the Bylaws provide for a lower percentage, the quorum for a meeting which has already been postponed due to failure to meet quorum requirements, shall be thirty percent of the votes which may be cast. Unless otherwise provided by this Declaration, the Association's Articles of Incorporation or Bylaws, action by the Members shall be by any means permitted by the Colorado Revised Nonprofit Corporation Act.

Section 4.4. Addresses for Notices. All Owners of each Parcel shall have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. Unless and until the Owner or the

representative of the Owners of a parcel shall furnish another address for notice purposes as required under this Section, the address of the Parcel shall be deemed the registered address of the Owner or Owners for notice purposes. If the address of the Parcel is the registered address of the Owners for notice purposes, then any notice shall be deemed duly given if delivered to any person occupying the Parcel, or, if the Parcel is unoccupied, if the notice is held and available for the Owner or Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the following address or such other address as the Board of Directors may designate from time to time by notice to the Owners:

Board of Directors
The Lambert Ranch Association, Inc.
P. O. Box 336
Sedalia, Colorado 80135

Notices given in accordance with this Section may be sent by hand delivery, which shall be effective upon receipt; by overnight courier service, which shall be effective one day after deposit with the courier service; by regular, registered or certified U.S. mail, postage prepaid, which shall be effective three days after deposit in the mail.

Section 4.5. Transfer Information. Within ten days after the date of transfer, all Purchasers of Parcels shall provide the Association with written notice of the Purchaser's name, address, Parcel owned, date of transfer and name of the former Owner. Purchaser shall also provide a true and correct copy of the recorded instrument conveying or transferring the Parcel or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association reasonably determines is necessary or helpful in connection with maintaining information regarding conveyances and transfers of Parcels. The Association or the Managing Agent shall have the right to charge the Purchaser a reasonable fee for processing the transfer in the records of the Association.

Section 4.6. Period of Declarant Control. There shall be a Period of Declarant Control of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove the members of the Board of Directors who have been appointed by Declarant. The Period of Declarant Control shall commence on the filing of the Articles of Incorporation of the Association and shall terminate no later than the earlier of : (a) sixty days after conveyance of seventy-five percent of the Parcels which may be created to Owners other than Declarant; (b) two years after Declarant's last conveyance of a parcel in the ordinary course of business; or (c) two years after any right to add new units was exercised.

The Declarant may voluntarily surrender the right to appoint and remove members of the Board of Directors before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Board of Directors, as described in a recorded instrument executed on behalf of the Declarant, be approved by the Declarant before they become effective.

Section 4.7. Required Election of Owners. Not later than sixty days after conveyance of twenty-five percent of the Parcels which may be created to Owners other than Declarant, the number of Directors serving on the Board of Directors shall be expanded to not less than three and at least one member and not less than twenty-five percent of the members of the Board of Directors must be elected by Owners other than Declarant. Not later than sixty days after conveyance of fifty percent of the Parcels which may be created to Owners other than Declarant, not less than thirty-three and one-third percent of the members of the Board of Directors must be elected by Owners other than Declarant. Not later than the termination of any Period of Declarant Control, the Owners shall elect a Board of Directors of at least three members, at least a majority of whom shall be Owners other than Declarant or designated representatives of Owners other than Declarant. After the Period of Declarant Control, the Board of Directors shall elect the officers. The members of the Board of Directors and the officers shall take office upon election. During the Period of Declarant Control, the Declarant shall appoint the officers.

Section 4.8. Removal of Members of the Board of Directors. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice and an opportunity to be heard as required by this Declaration and the Act, the Owners, by a two-thirds vote of all persons present in person or by proxy and entitled to vote at a meeting of the Owners at which a quorum is present, may remove a member of the Board of Directors with or without cause, other than a member appointed by the Declarant.

Section 4.9. Requirements at Termination of Period of Declarant Control. Within sixty days after Owners other than Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver to the Association all property of the Owners and the Association held by or controlled by the Declarant, required by the Act.

ARTICLE 5. ASSOCIATION POWERS AND DUTIES

Section 5.1. Association Management Duties. Subject to the rights and obligations of Declarant and other Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Project and for the exclusive management, control, maintenance, repair, replacement, and improvement of the Common Elements and the Limited Common Elements, if any, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The expenses, costs and fees for such management, control, operation, maintenance, repair, replacement and improvement by the Association shall be part of the Assessments, and prior approval of the Owners shall not be required in order for the Association to pay such expenses, costs and fees. The Association shall establish and maintain, out of the installments of annual Assessments, an adequate reserve account for maintenance, repair or replacement of those Common Elements and Limited Common Elements, if any, which must be maintained, repaired or replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures and reserves which will be the basis for collection of Assessments for Common Expenses from Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of

Assessments. All financial and other records of the Association shall be made reasonably available for examination by any Owner and such Owner's authorized agents.

The Association, and individual Owners, shall comply with the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Decree of the Water Court issued in Case No. 98-CW-262 ("Decree"), a true and correct copy of which is attached hereto as Exhibit C. Specifically, the Association shall keep accurate records of all withdrawals from each well with the Project and shall submit such records or a summary thereof to the Water Division No. 1 Engineer annually or as otherwise required. A totalizing flow meter must be installed on each well prior to withdrawing water therefrom. Further, the Association shall be obligated to make up any deficit, if it is determined that the return flows described in paragraph 11B(1) of the Decree are inadequate to fully replace modeled stream depletions. Such deficits shall be made up by direct discharge of non-tributary ground water to the stream to the extent necessary. The Association may have the obligation to construct the Laramie Foxhill well in the future to replace stream depletions which occur after pumping from the Denver aquifer ceases. Withdrawal for combined domestic, lawn and garden irrigation, and stock watering uses shall not exceed the average annual amount of 2.5 acre feet per Parcel. The Association shall be responsible to comply with all of Applicant's obligations under the Decree.

The Association shall maintain records showing the metered withdrawals from all wells within the Project, including any replacement or additional wells thereto, and calculated return flows on an accounting form acceptable to the Division 1 Engineer. A summary report shall be submitted to both the Water Division 1 Engineer and the State Engineer annually. A proposed accounting form to satisfy these requirements is attached to Exhibit D of the Decree. The failure of any Owner or the Association to comply with the terms of the Decree may result in an order of the Division Engineer to curtail pumping of the Owners' wells.

Section 5.2. Grants and Reservations of Easements. Declarant, hereby grants, sells, conveys and dedicates to the Association for the common use of the Association, and the Owners, Occupants, their tenants, guests, servants, invitees, successors and assigns the following easements: The non-exclusive 40 foot emergency access and utility easements shown on the Survey. All of the easements granted hereby, if any, and all improvements constructed thereon are Common Elements owned by the Association.

Declarant hereby creates and reserves for the benefit of the Association, its successors and assigns, perpetual and non-exclusive easements over the Parcels as may be necessary and appropriate for the Association to perform its duties and functions as necessary under this Declaration. Declarant has created and hereby creates and reserves for the benefit of the Board of County Commissioners of the County of Douglas, State of Colorado such maintenance, slope, drainage and utility easements as may be necessary or desirable in connection with the construction of roads within the Property whether or not such easements are shown on the Survey.

Declarant hereby reserves to itself, its successors and assigns a perpetual, non-exclusive

blanket easement and rights-of-way in, over, across, under and through the Project for all uses necessary or convenient for drilling, completion, construction or installation of water wells, pipelines, pumps, motors and electrical equipment and the pumping, piping, production and delivery of water from water wells, irrigation ditches, water storage ponds and for construction, operation, maintenance, repair, replacement and removal of underground utility lines by Declarant, its successors and assigns, and by utility providers as permitted by Declarant. All wells, pipelines, pumps, motors and electrical equipment shall be located underground or flush with the surface of the ground and will not generate noise at levels which will be a nuisance to Owners. Declarant hereby agrees to restore and repair any damaged area as nearly as reasonably possible to its original condition, to replace any soil removed so as to prevent erosion, to remove any excess earth or rocks and to remove any drilling mud resulting from said construction, operation, maintenance, repair, replacement or removal, at Declarant's sole cost and expense. Declarant agrees that it will maintain continuous vehicular and pedestrian access to any Parcel or Tract while constructing, operating, maintaining, repairing, replacing, or removing any water wells, pipelines, underground utility lines, pumps, motors or electrical equipment.

Section 5.3. Exceptions to Title. The Property is subject to the matters set forth in Exhibit B attached, and such easements as are shown on the Survey including, without limitation, that certain Conservation Easement affecting Tracts A, B and C described in Section 2.13, and recorded prior to the Declaration.

The Property is also subject to all roads, maintenance, slope, drainage and utility easements which will be conveyed to Douglas County by deed recorded after this Declaration.

Section 5.4. Association Powers. The Association has been formed to further the common interests of its members. The Association, acting through its Board of Directors or persons to whom said Board of Directors has delegated such powers, shall have the duties and powers hereinafter set forth, as well as the power to do anything which may be necessary or desirable to further the common interests of the Owners to maintain, improve and enhance the Common Elements and to improve and enhance the attractiveness and desirability of The Lambert Ranch.

Section 5.5. Actions by Board of Directors. Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Board of Directors may act in all instances on behalf of the Association; provided however, the Board may not act on behalf of the Association to amend this Declaration, to terminate the Project, or to elect members of the Board of Directors, or to determine the qualifications, powers and duties, or terms of office of members of the Board of Directors. The Board of Directors may, however, fill vacancies in its membership for the unexpired portion of any term.

Section 5.6. Board of Directors Meetings. All meetings of the Board of Directors at which action is taken by vote will be open to Owners, except meetings of the Board of Directors may be held in executive session, without giving notice and without the requirement that they be open to Owners in the following situations: (a) no action is taken at the executive session requiring the

affirmative vote of the members of the Board; (b) the action taken at the executive session involves personnel, pending litigation, contract negotiations, enforcement actions, or matters involving the invasion of privacy of individual Owners, or matters which are to remain confidential by request of the affected parties and agreement of the Board of Directors; or (c) such other matters which may be the subject of executive session in accordance with the Act.

Section 5.7. Right to Notice and Hearing. Whenever the Project Documents require that action be taken after "notice and hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Board, a committee, an officer, the Managing Agent) shall give notice of the proposed action to all Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or by mail not less than ten days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by representative, to give testimony orally, in writing, or both (as specified in the notice) subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was sent. Any Owner having a right to notice and a hearing shall have the right to appeal to the Board of Directors from a decision of a proposing party other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten days after being notified of the decision. The Board of Directors shall conduct a hearing within forty-five days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 5.8. Annual Budgets. The Board of Directors of the Association shall cause to be prepared, at least sixty days prior to the commencement of each calendar year, a Budget for such calendar year. The Budget shall show, in reasonable detail, the categories of expenses and shall reflect any expected income of the Association for the coming calendar year and any expected surplus from the prior year. The Budget may include an amount for contingencies. A summary of the Budget approved by the Board shall be mailed to the Owners within thirty days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen nor more than sixty days after the mailing of the Budget to the Owners. Unless at the meeting a majority of all Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed Budget, the Budget is ratified whether or not a quorum is present at the meeting. In the event the proposed Budget is rejected, the last Budget ratified by the Owners shall continue to be the Budget of the Association until such time as the Owners ratify a subsequent Budget proposed by the Board as provided above.

Section 5.9. Payments to Working Capital. In order to provide the Association with adequate working capital funds, the Association may collect the sum of \$ TBD from Purchasers at the time of the initial sale of each Parcel by Declarant. The capital contribution shall be used to create a reserve fund for the Association. Such payments to the reserve fund shall not be refundable by the Association upon resale of a Parcel and shall not be considered advance payments of annual

Assessments.

ARTICLE 6. ASSESSMENTS

Section 6.1. Common Expenses. Common Expenses are expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, but not limited to (a) expenses of administration, insurance, operation, management, repair and replacement of the Common Elements except to the extent such repairs and replacements are the responsibility of an Owner as provided in this Declaration; (b) expenses declared Common Expenses by the provisions of the Act, this Declaration or the Bylaws; (c) all sums lawfully assessed against the Parcels by the Board of Directors; (d) expenses agreed upon as Common Expenses by the members of the Association; and (e) expenses provided to be paid pursuant to any Management Agreement.

Section 6.2. Commencement of Common Expense Assessments. Assessments shall commence upon the conveyance of the first parcel by Declarant to any grantee. The initial assessment shall be \$ TBD per _____. After an Assessment has been made by the Association, Assessments shall be made no less frequently than annually, and shall be based upon a budget adopted no less than annually by the Association..

Section 6.3. Annual Assessments. The Association shall levy annual Assessments to pay the Common Expense Liability allocated to each Parcel pursuant to this Declaration. The failure by the Board of Directors to levy an annual Assessment for any year shall not be a release of such Assessment for that or any subsequent year. In the event of such a failure, the annual Assessment for the immediately preceding year shall continue in effect until a new amount has been established as provided in this Declaration. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves, shall be repaid to the Owners in proportion to their Common Expense Liability or credited to them to reduce their future Assessments for Common Expenses.

Section 6.4. Apportionment of Annual Assessments. The total annual Assessment for any fiscal year of the Association shall be assessed to the Parcels in proportion to their Allocated Interests in the Common Elements subject to (a) Common Expenses associated with the maintenance, repair or replacement of Limited Common Elements, if any, which shall be assigned equally or on such other equitable basis as the Board of Directors shall determine to Parcels to which specific Limited Common Elements are allocated; (b) any increased cost of insurance based upon risk which shall be assessed to Parcels in proportion to the risk; and (c) any Common Expense caused by the misconduct of any Owner(s), which may be assessed equally or on such other equitable basis as the Board of Directors shall determine against such Owner(s). All such allocations of Common Expenses to Parcels on a basis other than the Parcels' Allocated Interest in Common Elements shall be made at the sole discretion of the Board of Directors. Any billing for an Assessment may indicate items that are specifically allocated as set forth above.

Section 6.5. Special Assessments. In addition to annual Assessments authorized above, after the termination of the Period of Declarant Control, the Board of Directors may at any time and from time to time determine, levy, and assess in any fiscal year a special Assessment applicable to that particular fiscal year (and for any such longer period as the Board may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolition, replacement, renovation or maintenance of the Project, specifically including any fixtures and personal property related to it. Any amounts determined, levied, and assessed pursuant to this Declaration shall be assessed to the Parcels pursuant to the provisions of Section 6.4 set forth above. Any special Assessments shall be subject to the same requirement for review and approval by the Owners as the Budget.

Section 6.6. Due Dates for Assessments. Unless otherwise determined by the Board of Directors, the annual Assessments and any special Assessments shall be due and payable annually in advance to the Association at its office or as the Board may otherwise direct in any Management Agreement. Unless otherwise determined by the Board, and except for the initial notice of annual or any special Assessment, notices of the amount of the Assessment shall be forwarded during the month of December for the following year, payable within thirty days of receipt of notice. If any Assessment shall not be paid within thirty days after it shall have become due and payable, the Board of Directors may assess a late charge, default interest charge, fee or such other charge as the Board of Directors may fix by rule from time to time to cover the additional expenses involved in handling delinquent Assessments. Until established or changed by the Board of Directors, the default interest rate shall be 15% per annum.

Section 6.7. Default Assessments. The Association may, subject to the provisions of this Declaration, levy an Assessment against an Owner if the willful or negligent failure of the Owner or an Occupant of the Owner's Parcel to comply with the Project Documents shall have resulted in the expenditure of funds by the Association to remedy such failure or cause such compliance. Such Assessments shall be known as "Default Assessments," and may be subject to notice and hearing under the provisions of this Declaration. All Costs of Enforcement assessed against a parcel pursuant to the Project Documents, or any expense of the Association which is the obligation of an Owner pursuant to the Project Documents shall become a Default Assessment assessed against the Owner's Parcel. Notice of the amount and demand for payment of such Default Assessment shall be sent to the Owner prior to enforcing any remedies for nonpayment hereunder.

Section 6.8. Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed. In the event of a default in any payment of any Assessment, the Board of Directors may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation on behalf of the Association by suit or by filing a foreclosure of lien as hereinafter provided.

Section 6.9. Lawsuit to Enforce Assessments. The Board of Directors may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charge, interest and other Costs of Enforcement including reasonable attorneys' fees in an

amount a court may determine, against the defaulting Owner.

Section 6.10. Lien to Enforce Assessments. The Association has a statutory lien on any Parcel for any Assessment or Costs of Enforcement levied against such Parcel or the Owner thereof. Recording of this Declaration constitutes record notice and perfection of the lien. However, the Board of Directors may also elect to file a claim of lien against the Parcel of the delinquent Owner by recording a notice setting forth (a) the amount of the claim of delinquency; (b) the interest and Costs of Enforcement which have accrued thereon; (c) the legal description and street address of the Parcel against which the lien is claimed; and (d) the name of the Owner thereof. Such notice shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. If such a lien was recorded by the Association, then when all amounts claimed under the lien have been fully paid or otherwise satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee fixed by the Association to cover the cost of preparing and recording the release of lien. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado.

Section 6.11. Priority of the Association Lien. (a) A lien under this Article is prior to all other liens and encumbrances on a parcel except: (i) liens and encumbrances recorded before the recordation of this Declaration; (ii) a first Security Interest on the Parcel, which was recorded or perfected before the date on which the Assessment sought to be enforced became delinquent; or (iii) Liens for real estate taxes and other governmental assessments or charges against the Parcel.

(b) A lien under this Article is also prior to the first Security Interest described in the preceding subsection (a) to the extent of the amount equal to Common Expense Assessments based on the most recent Budget adopted by the Board of Directors, as provided above, which would have become due, in the absence of any acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien, of an action or nonjudicial foreclosure either to enforce or extinguish the lien.

(c) This Article does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other Assessments made by the Association. A lien under this Article is not subject to the provisions of Part 2 of Article 41 of Title 38, C.R.S., as amended, or to the provisions of §15-11-201, C.R.S. 1973, as amended.

Section 6.12. Purchaser's Liability for Assessments. Notwithstanding the personal obligation of each Owner to pay all Assessments on the Parcel, all Purchasers shall be jointly and severally liable with the prior Owner(s) for any and all unpaid Assessments against such Parcel, without prejudice to any such Purchaser's right to recover from any prior Owner any amounts paid thereon by such Purchaser. A Purchaser's obligation to pay Assessments shall commence upon the date the Purchaser becomes the Owner of a parcel. For Assessment purposes, the date a Purchaser becomes an Owner shall be determined as follows: (a) in the event of a conveyance or transfer by

foreclosure, the date the Purchaser becomes the Owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure, a Purchaser shall be deemed to become the Owner of a parcel upon the execution and delivery of the deed or other instruments conveying or transferring title to the Parcel, irrespective of the date the deed is recorded; and (c) in the event of a conveyance or transfer by deed, a Purchaser shall be deemed to become the Owner upon the execution and delivery of the deed or other instruments conveying or transferring title of the Parcel, irrespective of the date the deed is recorded. However, such Purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such Purchaser pursuant to the provisions set forth below in this Declaration.

Section 6.13. No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason, including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

Section 6.14. Statement or Status of Assessments. Upon fourteen days' written notice to the Managing Agent or Board of Directors and payment of a reasonable fee set from time to time by the Board of Directors, any Owner, holder of a Security Interest, prospective Purchaser of a parcel, or their designees shall be furnished a statement of the Owner's account setting forth: (a) the amount of any unpaid Assessments then existing against a particular Parcel; (b) the date(s) for payment of any installments of any special Assessments outstanding against the Parcel; and (c) any other information, deemed proper by the Association, including the amount of any delinquent Assessments created or imposed under the terms of this Declaration.

Upon the issuance of such a certificate signed by a member of the Board of Directors, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith. If no statement is furnished, the Association shall have no right to assert a lien against the Parcel for unpaid Assessments which were due at the time the request for a statement of the Owner's account was made.

Section 6.15. Liens. Except for Assessment liens as provided in this Declaration, mechanics' liens (except as prohibited by this Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising under Security Interests, there shall be no other liens obtainable against the Common Elements except a Security Interest in the Common Elements granted by the Association pursuant to the requirements of the Act.

ARTICLE 7. ARCHITECTURAL CONTROL

Section 7.1. Design Review Committee. The Design Review Committee ("Committee") shall consist of at least three members designated by Declarant during the Period of Declarant Control of the Association, and thereafter shall consist of at least three members designated by the

Board of Directors, to review, study and approve or reject proposed improvements on any Parcel in the Project. The members of the Committee need not be Owners. The purpose of the Committee shall be to implement the provisions of this Declaration and of the Design Standards on behalf of the Association. For that purpose, the Committee shall have power to make determinations concerning all proposed improvements within the Project and to adopt such procedures as they may deem appropriate to govern the proceedings of the Committee and to effect its function, in accordance with the Design Standards.

Section 7.2. Architectural Control. The Committee shall review, study, and approve or reject proposed improvements upon Parcels subject to the covenants and restrictions of this Declaration, and in accordance with the Design Standards.

A. Design Standards. The Board shall adopt rules and regulations to interpret and implement the provisions of this Article and of Article 8. These rules and regulations shall be known as the "Design Standards" and shall contain, among other things, the following:

- i) Detailed review procedures an Owner is to follow when submitting plans and specifications to the Committee for approval.
- ii) Guidelines which clarify the types of designs and materials that will be considered in compliance with the Design Standards.
- iii) A variance procedure requiring at least two-thirds vote of the Committee which may be used upon good cause shown by an Owner, and then only upon such terms and conditions as the Committee shall require.

The Design Standards shall be adopted and may be amended by the Committee from time to time.

B. Approval Required. No building or structure of any kind shall be commenced, erected or maintained upon the Parcels, nor shall any building exterior addition, change or alteration be made, nor shall any vegetation be altered or destroyed, nor any landscaping performed until satisfactory and complete plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of exterior design and location in relation to surrounding structures, topography, and overall environment by the Committee. No existing trees or oak brush may be removed or destroyed without prior approval of the Committee. The Design Standards may contain rules and regulations pertaining to the control and eradication of noxious weeds. Approval of the Committee is in addition to and not in lieu of compliance with the building code and all other applicable requirements of Douglas County.

- C. General Criteria. In passing upon such plans and specifications, it shall be the objective of the Committee to make certain that no improvements will impair the aesthetic and monetary values of the Project. The Committee shall consider all factors relating to the quality of the improvements and the compatibility and harmony of the improvements with the environment, including but not limited to: the location of the improvements on the Parcels; color scheme, materials, design, proportions, shape, height and style of the improvements; the impact of any proposed improvement on the natural surroundings; and the timely and orderly completion of all improvements. The Committee shall give equal weight in its decision making to quality of life of Owners.
- D. Powers of the Committee. The Committee shall have the authority to require an Owner to hire professional architectural or home design advisors and professional engineering advisors to develop and coordinate plans and specifications for the construction of improvements on a Parcel. The Committee shall have the authority to prevent an Owner from occupying or allowing the occupancy of any building on a Parcel until all requirements of the Design Standards have been satisfied. In addition, the Committee shall be entitled to charge a reasonable review fee and to require an Owner to pay the cost of any reasonable consulting fees paid to an architect or engineer hired by the Committee to evaluate the Owner's plan.
- E. No Liability. Neither the Association, the Board of Directors, the Committee, nor any member or agent thereof shall be responsible in any way for any faults or defects in any plans or specifications submitted, revised or approved in accordance with these provisions or in accordance with the Design Standards, nor for any structural or other defects in any work done in accordance with such plans and specifications.

ARTICLE 8. RESTRICTIVE COVENANTS

Section 8.1. General. All construction of dwellings, barns, or other structures and fences, and all grading, landscaping, improvements and alterations within the Project shall be conducted and completed in a workmanlike and safe manner complimentary to the natural setting and surroundings. The location of all driveways shall be subject to the review and approval of the Committee and shall be located so as to minimize the impact upon other Parcels. The approval of the Committee shall be required for all aspects of new construction, including location. All provisions of the Douglas County Zoning Resolution pertaining to setbacks shall be applicable to the Project.

Section 8.2. Minimum Size of Dwelling Units. No dwelling shall be built within the Project which contains less than 2,200 square feet of living space (excluding basements, garages and porches or decks) on any one floor for a ranch-style structure, and not less than 1,700 square feet on the first floor for a two-story structure, with a total minimum square footage for a two-story structure of 2,500 square feet.

Section 8.3. Outbuildings. Up to three outbuildings may be constructed on each Parcel within the Building Envelope. All exterior sides and roofs of such structures shall match the color of the main dwelling on the same Parcel.

Section 8.4. Construction Period. All structures commenced shall be diligently completed. Construction of any dwelling shall be completed within twelve (12) months of the date of commencement of construction of that dwelling. Construction of any barn or other structure shall be completed within six (6) months of commencement of construction of that barn or other structure.

Section 8.5. Maintenance of Property. No property within the Project shall be permitted to fall into disrepair or be overgrazed, and all of the property within the Project, including any improvements, structures and landscaping thereon, shall be kept in a clean, attractive and slightly condition and in good repair. Maintenance, repair and upkeep of each Parcel shall be the responsibility of the Owner of such Parcel, and repair and upkeep of the property of the Association, including but not limited to roadway snow removal, shall be the responsibility of the Association. Violation of this provision by an Owner shall permit the Association, after notice and hearing, to enter the Parcel of the Owner and cure the violation or cause compliance with this provision and to levy a Default Assessment for the Costs of Enforcement of the Association in so doing; provided, however, and notwithstanding any other provision of this Declaration to the contrary, that there shall be no entry into the interior of an improvement or structure without the written consent of the Owner unless a clear emergency exists.

Section 8.6. Property Use. No commercial use shall be made or commercial activity conducted within the Project except upon prior written approval of the Association, except that any Owner may conduct a home occupation, business office, law office, medical practice, or other professional practice or home business, provided that there be no "walk-in" traffic or signs or advertising concerning such office or practice within the Project. Notwithstanding the foregoing, Owners may keep livestock on their Parcels, so long as the use complies with Section 8.7, below.

Section 8.7. Animals and Overgrazing. No vicious animals shall be allowed on or be kept within the Project. No animals shall be allowed to bark or howl habitually. All animals kept on a parcel shall be restricted to that Parcel, shall not be allowed to run at large and shall not be allowed access to any other Parcel, without the written consent of the Owner of such Parcel. Dogs shall be restricted to the area of the Building Envelope from sunset to sunrise due to their tendency to interfere with the movement of wildlife during these time periods. Cats shall be restricted to the Building Envelope at all times. Livestock animals shall be restricted to horses, donkeys and llamas, and calves or heifers or other animals being raised by children as projects for 4-H or Future Farmers of America or other similar organizations, and such farm and ranch type animals as may be allowed by the Committee. All such animals shall be owned by the Parcel Occupant as opposed to boarded for a third party, unless approved by the Committee, and no such animals shall be kept for the purpose of commercial breeding or sale unless approved by the Committee. A barn, pen or corral shall be built for all livestock animals within the Building Envelope prior to such animals being allowed on the Parcel, unless alternative arrangements are approved by the Committee. Such

construction shall be in accordance with the Design Standards and require prior approval by the Committee. Under no circumstances will such structures be allowed outside of any Building Envelope. Such barns, pens and corrals shall be maintained and cleaned regularly. Owners will remove or spread manure in a safe and sanitary manner so that no nuisance is caused to other Owners.

All such animals shall be maintained in a manner which avoids the overgrazing of any Parcel. The meaning of the term "overgrazing" shall be that of the U.S. Soil Conservation District for Douglas County, Colorado; and each Owner shall and does hereby consent to entry upon each and all Parcels by the Douglas County Soil Conservation Agent or other suitable expert at all reasonable times, with prior notice, at the request of the Association or the Committee, to determine whether overgrazing has occurred. In the event that the Agent or other expert determines that there has been overgrazing of a parcel, the Association shall give written notice thereof to the Owner by personal delivery or by U.S. Mail. Subject to the Owner's right to notice and hearing, within five (5) days of receipt of such notice by an Owner, the Owner shall remove all livestock and horses from the overgrazed areas to return them to a state acceptable to the U.S. Soil Conservation District for Douglas County, Colorado. Overgrazing provisions are not intended to apply to corral or pen areas. Upon a determination by the Douglas County Soil Conservation Agent or other suitable expert that the areas subject to the overgrazing notice are no longer overgrazed, livestock and horses may be returned to such areas.

Section 8.8. Vehicle Restriction. No inoperable vehicle shall be parked anywhere within the Project in such a manner as to be visible from any other Parcel, the Common Elements or any public road for longer than 72 hours. Due to the fragile nature of the land, no recreational vehicles, including without limitation, motorcycles, motor bikes, automobiles, trucks, dirt bikes, snowmobiles, all terrain vehicles and any similar motorized vehicle, may be driven within a Parcel outside of any driveway. This is not intended to preclude the use of utility vehicles such as tractors in the course of general maintenance of the Parcels, e.g., fence and landscaping construction and maintenance.

Section 8.9. Prohibited Improvements. No used or secondhand structure, no modular or temporary living structure, including mobile homes, house trailers, tents, or shacks, shall be placed or used on a Parcel, either temporarily or permanently. However, trailers and structures of a temporary nature may be used during the period of construction of an approved improvement, but for no longer period than twelve months without the written consent of the Committee. Such construction trailers shall not be occupied as living space. This is not intended to prevent children's short-term camping activities. No Owner shall be allowed to further subdivide a parcel.

Section 8.10. Signs. No signs, billboards, poster boards, or advertising structure of any kind shall be erected or maintained for any purpose whatsoever except such signs as have been approved by the Committee pursuant to its published regulations and except: (a) Declarant or its agent have the right to erect signs during the period of sales of Parcels without prior written approval of the Committee; (b) Declarant or the Association may install and maintain monument, project identification and other signs of a similar nature; (c) such traffic control signs as the Association may

cause or permit to be placed in the Common Elements; and (d) two "For Sale" or "For Rent" signs of not more than six square feet each which may be placed near the driveway and on the Building Envelope of any Parcel being offered for sale or for rent.

Section 8.11. No Mining, Drilling or Quarrying. Except for residential water wells and other drilling and mining as may be permitted in Section 8.17 hereof, no mining, quarrying, tunneling, excavating, or drilling for any substances within the earth, including, but not limited to, oil, gas, gravel, sand, rock and coal, shall ever be permitted within the limits of the Project.

Section 8.12. Weed Control. All weeds determined to be noxious by Douglas County, the State of Colorado or the U.S. Soil Conservation District shall be eradicated from each Parcel by the Parcel Owner. The method of eradication shall be pre-approved by the Committee.

Section 8.13. Trash. No trash, ashes, or other refuse or debris may be thrown or dumped on the Parcels. The burning of refuse out-of-doors shall not be permitted. No incinerators or other devices for burning of refuse indoors shall be constructed, installed, or used by any person except as approved by the Committee. Waste materials, garbage, and trash shall be kept in sanitary containers and shall be enclosed and screened from public view and protected from disturbance and shall be disposed of with reasonable promptness. The Owner of any Parcel shall keep the Parcel free from trash, debris, or refuse of any kind, whether said Parcel is vacant or improved.

Section 8.14. Noxious, Annoying or Offensive Activity. No noxious, annoying or offensive activity shall be carried on upon any Parcel, nor shall anything be done or placed on the Property which is a nuisance or creates a disturbance or annoyance to others. No lights shall be emitted from any Parcel which are unreasonably bright or cause unreasonable glare; no sound shall be emitted from any Parcel which is unreasonably loud or annoying; no odor shall be emitted from any Parcel which is noxious or offensive to others. Nothing shall be done on the Common Elements which is a nuisance or might become a nuisance to Owners. The noise provisions of this Section apply to motorized vehicles.

Section 8.15. Firearms. The discharge of firearms is prohibited throughout the Project, as is hunting and the trapping of animals. This is not intended to prevent Owners or Occupants from protecting themselves against rattlesnakes, predators or dangerous animals.

Section 8.16. Variances. A variance from or exception to the provisions of this Article 8 or to the provisions of the Design Standards may be granted by the Committee upon two-thirds vote, upon good cause shown by the Owner and upon a finding that such variance will have no detrimental effect on any other Parcel or the Common Elements. The Committee may grant such variance with such terms and conditions as the Committee may impose in its sole discretion. The Committee may grant variances only from the terms and conditions of this Article and the Design Standards and not from the Conservation Easement or any rules or regulations of Douglas County or the State of Colorado. Grants or denials of variances may be appealed in accordance with the provisions of the Design Standards. The granting or denial of a variance in any one instance will not estop the

Committee from granting or denying a variance in any other instance or circumstance.

Section 8.17. Water/Water Rights. Declarant is expressly allowed, and has reserved to itself, its successors and assigns, the right to install, develop, operate, maintain, repair, replace and construct any and all facilities including utilities, necessary or desirable to extract, transfer or export water from the Project for all beneficial uses in accordance with and subject to the provisions of Section 5.2. All such facilities may be constructed without the approval of the Committee.

ARTICLE 9. SPECIAL DECLARANT RIGHTS

Section 9.1. Special Declarant Rights. Declarant hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

- A. Completion of Improvements. The right to complete improvements indicated on the Survey, and roads, utility service lines, culverts and other improvements on the Common Elements, whether or not indicated on the Survey.
- B. Exercise of Development Rights. The right to exercise any Development Right reserved in Article 10 of this Declaration.
- C. Sales Management and Marketing. The right to maintain signs advertising the Project on any Parcel owned by Declarant, and in the Common Elements; the right to maintain sales offices, management offices, and models, on any Parcel owned by Declarant, and in the Common Elements.
- D. Construction Easements. The right to use easements through the Common Elements for the purpose of making improvements within the Project, including real estate which may be added to the Project.
- E. Control of Association and Board of Directors. The right to appoint or remove any member of the Board of Directors appointed by Declarant during the Period of Declarant Control.
- F. Dedications. The right to establish, by dedication or otherwise, on or over the Common Elements, utility and other easements for purposes including but not limited to streets, paths, walkways, drainage, recreation, parking, and conduit installation to serve the Project.
- G. Merger. The right to merge or consolidate the Project with another common interest community of the same form of ownership.
- H. Master Association. The right to make the Project subject to a master association.

- I. Transfer of Development Rights and Special Declarant Rights. The right to transfer, convey, or assign any and all Development Rights and Special Declarant Rights to any successor of Declarant.

Section 9.2. Limitations on Special Declarant Rights. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Rights may be exercised by the Declarant anywhere in the Project so long as the Declarant, or its successor or assign, holds the Special Declarant Rights.

ARTICLE 10. RESERVATION OF DEVELOPMENT RIGHTS

Section 10.1. Development Rights. Declarant expressly reserves the right to combine Parcels, to convert Parcels into Common Elements, to relocate boundaries of Parcels on all or any portion of any Parcel owned by Declarant, to add real estate to the Project, to create Parcels, Common Elements or Limited Common Elements within the Project on real property owned by the Declarant, and to withdraw Parcels or other real property owned by Declarant from the Project. Declarant may exercise any or all of the Development Rights reserved in this Declaration at any time with respect to any Parcels or real estate owned by the Declarant within the entire Property. No assurances are made with respect to the boundaries of any Parcels that may be developed or the order in which any Parcels may be developed. Exercise of a Development Right with respect to any one Parcel does not require exercise of a Development Right on any other property subject to Development Rights. No assurances are made that any further development will occur.

Section 10.2. Interpretation. Recording of supplements or amendments to this Declaration in the Records shall automatically: (a) vest in each existing Parcel Owner the reallocated Allocated Interests appurtenant to his Parcel; and (b) vest in each existing holder of a Security Interest a perfected Security Interest in the reallocated Allocated Interests appurtenant to the encumbered Parcel.

Section 10.3. Maximum Number of Parcels. The maximum number of Parcels in the Project shall not exceed 37. Declarant shall not be obligated to expand this Project beyond the number of Parcels initially submitted to this Declaration. Any reference in this Declaration to Parcels that may be created refers to the maximum number of Parcels allowed in this Section.

Section 10.4. Termination of Development Rights. The Development Rights reserved to Declarant, for itself, its successors and assigns, shall expire ten years after the date of recording this Declaration in the Records, unless the Development Rights are reinstated or extended by the Association, subject to whatever terms, conditions and limitations the Board of Directors may impose on the subsequent exercise of the Development Rights by Declarant as provided by the Act. Subject to the Association's right of reinstatement, upon the expiration or other termination of the Development Rights, any Parcel then subject to Development Rights shall become Common Elements.

Section 10.5. Interference with Development Rights. Neither the Association nor any Owner may take any action or adopt any Rule or Regulation that will interfere with or diminish any Development Rights reserved in this Article without the prior written consent of the Declarant.

Section 10.6. Rights Transferrable. Any Development Rights created or reserved under this Article for the benefit of the Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 11. DURATION OF COVENANTS; AMENDMENT AND TERMINATION

Section 11.1. Term. This Declaration and any amendments and supplements to it shall remain effective from the date of recordation in the Records for a period of fifty years. Thereafter, these covenants shall automatically be extended for five successive periods of ten years each, unless otherwise terminated or modified as provided in this Article.

Section 11.2. Amendment of Declaration. Except to the extent that this Declaration and the Act expressly permit or require amendments which may be executed by the Declarant or by the Association, this Declaration may be amended only by a vote or agreement of Owners to which more than fifty percent of the votes in the Association are allocated.

Section 11.3. Execution of Amendments. Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for such purpose or, in the absence of a designation, by the president of the Association. All expenses associated with preparing and recording the amendment to this Declaration shall be the responsibility of (a) any Owners desiring an amendment as provided for in this Declaration, or in the Act; (b) the Declarant, to the extent the right to amend this Declaration is reserved to the Declarant and exercised by the Declarant; and (c) in all other cases by the Association as a Common Expense.

Section 11.4. When Modifications Permitted. Notwithstanding the provisions above, no amendment or termination of this Declaration shall be effective in any event during the Period of Declarant Control, unless the written approval of the Declarant is first obtained.

Section 11.5. Recording of Amendments. Any amendment to this Declaration made in accordance with this Article shall be effective immediately upon recording of the executed amendment in the Records together with a duly authenticated certificate of Declarant or the Secretary of the Association stating that the required vote of Owners, if any, and required consents of First Mortgagees, and/or Eligible First Mortgagees, as applicable, were obtained and are on file at the office of the Association. The amendment must be indexed in the Grantee's Index in the name of the Project and the Association and in the Grantor's Index in the name of the person or entity executing the amendment.

Section 11.6. Termination of the Project. The Project may only be terminated as provided

in the Act.

ARTICLE 12. MISCELLANEOUS

Section 12.1. Limitation on Liability. Except as otherwise provided by law, the Association, its Board of Directors, the Committee, Declarant and any officer, director, member, agent or employee of any of the same shall not be liable to any person for action or any failure to act if the action or failure to act was in good faith and without malice.

Section 12.2. No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Project area or any improvement thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, taxes or regulation thereof unless and except as specifically set forth in writing and signed by Declarant.

Section 12.3. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights of way and other provisions contained in this Declaration and the other Project Documents shall be through any proceedings at law or in equity brought by an aggrieved Owner, the Association, or Declarant against the Association or any Owner. Such actions may seek remedy by injunction or restraint of a violation or attempted violation, or an action for damages, or any of them, without the necessity of making an election.

Section 12.4. Nonwaiver. Failure by Declarant, the Association, or any Owner, Occupant or Eligible First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right of way or other provision contained in the Project Documents shall in no way or event be deemed a waiver of the right to do so thereafter.

Section 12.5. Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions shall in no way affect the validity or enforceability of any other provisions, which provisions shall remain in full force and effect. Any provisions which could violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 12.6. Number and Gender. Unless the context provides or requires to the contrary, use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 12.7. Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of the Declaration or the intent of any provision of the Declaration.

Section 12.8. Conflicts in Legal Documents. In case of conflicts between the provisions of the Declaration and the Articles of Incorporation, the Bylaws or any Rules and Regulations, this Declaration shall control. In case of conflicts between the provisions of the Articles, the Bylaws or any Rules and Regulations, the Articles will control. In case of conflicts between the provisions of any Rules and Regulations and the Bylaws, the Bylaws will control.

Section 12.9. Vesting of Interests. Any interest in property granted under this Declaration shall vest if at all, on or before the date of the death of the survivor of the now living children of Stanley R. Brown, plus twenty-one years.

Section 12.10. Exhibits. All of the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.


Section 12.11. Counterparts. This Declaration may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one agreement.

Section 12.12. Choice of Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Colorado.

Executed as of the 5th day of August, 1999.

VALLEY DEVELOPMENT GROUP, LLC, a
Colorado limited liability company

By
Its



Manager

99070471 - 08/12/99 08:09 - CAROLE R. MURRAY DOUGLAS CO. COLD. CLERK & RECORDER
B1743 - P1311 - \$290.00 - 31/ 58

[illegible]

The foregoing instrument was acknowledged before me this 5th day of August, 1999 by Stanley R. Brown as Manager of Valley Development Group, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 2-5-01

Cynthia A. Perez
Notary Public

99070471 - 08/12/99 08:09 - CAROLE R. MURRAY DOUGLAS CO. COLO. CLERK & RECORDER
B1743 - P1312 - \$290.00 - 32/ 58

SUBORDINATION BY HOLDER OF DEED OF TRUST

The undersigned, being the owner and holder of all the indebtedness secured by a certain deed of trust date July 8, 1999, in the original principal amount of \$ 2,980,000.00, recorded July 16, 1999 in Book 1733 at Page 2354 of the records of the Clerk and Recorder of Douglas County Colorado ("Deed of Trust") hereby agrees that the above Declaration of Protective Covenants for The Lambert Ranch to which this instrument is attached, shall be prior and paramount to all rights under such Deed of Trust, that the recording priority of the Deed of Trust shall at all times be subordinate to the Declaration, and that any sale or foreclosure of the Deed of Trust shall be subject to the Declaration.

[Handwritten Signature]

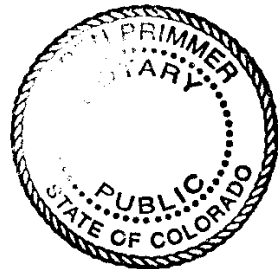
STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

Bg The foregoing instrument was acknowledged before me this 9th day of August, 1999 by Ryan R. Kowalski as Vice President of Mega Bank.

Witness my hand and official seal.

My commission expires: 01-13-01

[Handwritten Signature]
Notary Public



**EXHIBIT A
TO
DECLARATION OF PROTECTIVE COVENANTS
FOR
THE LAMBERT RANCH**

ALL OF SECTION 16, NE 1/4 OF SECTION 21, N ½ OF THE SE 1/4 OF SECTION 21 AND
THE E ½ OF THE SOUTH ½ OF THE SE 1/4 OF SECTION 21, TOWNSHIP 7 SOUTH, RANGE
68 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF
COLORADO, CONTAINING 923.440 ACRES, MORE OR LESS.

99070471 - 08/12/99 08:09 - CAROLE R. MURRAY DOUGLAS CO. COLO. CLERK & RECORDER
B1743 - P1314 - \$290.00 - 34/ 58

**EXHIBIT B
TO
DECLARATION OF PROTECTIVE COVENANTS
FOR
THE LAMBERT RANCH**

1. Right of way for ditches and canals constructed by the authority of the United States as reserved in the United States Patent of record.
2. Right of a proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises as reserved in the United States Patent of record.
3. Easements and rights of way as shown on boundary survey by Rocky Mountain Consultants dated 6/11/98.
4. Rights or claims of parties in possession not shown by the public records.
5. Easements, or claims of easements, not shown by the public records.
6. Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, and a right of way for ditches or canals constructed by the authority of the United States, as reserved in United States patent recorded May 22, 1879 in Book K at Page 47.
7. Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, and a right of way for ditches or canals constructed by the authority of the United States, as reserved in United States patent recorded March 30, 1912 in Book X at Page 549.
8. Decree of District Court in regard to Meadow Ditch No. 16 recorded October 3, 1885 in Book Q, Page 127. (Headgate located on West ½ Northeast 1/4 Section 21.)
9. Easement across Section 16 and Northeast 1/4 Section 21, Township 7 South, Range 68 West, for ingress and egress to Northwest 1/4 Section 21, Township 7 South, Range 68 reserved in Book 190, Pages 380, 382, 384, 386, 388.
10. Statement and Map of Lambert Reservoir No. 3 recorded January 4, 1897 in Book of Ditches Plat Filings No. 1 at Page 46.
11. Terms, Conditions and provisions of and easements created in deed recorded August 6, 1998 in Book 1583 at Page 206.

RECEIVED

AUG 02 1999

Douglas County Planning

EXHIBIT C

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,
AND DECREE OF THE WATER COURT**

99070471 - 08/12/99 08:09 - CAROLE R. MURRAY DOUGLAS CO. COLO. CLERK & RECORDER
B1743 - P1316 - \$290.00 - 36/ 58

DISTRICT COURT, WATER DIVISION 1, COLORADO

Case No. 98-CW-262

DISTRICT COURT

JUN 30 '99

WELD COUNTY, COLORADO

**FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF THE REFEREE,
AND DECREE OF THE WATER COURT**

**CONCERNING THE APPLICATION FOR WATER RIGHTS OF:
VALLEY DEVELOPMENT GROUP, L.L.C.,**

**FOR A PLAN FOR AUGMENTATION FOR WITHDRAWAL OF NOT
NONTRIBUTARY DENVER AQUIFER GROUND WATER,**

IN DOUGLAS COUNTY.

THIS MATTER has come before the Court upon the application of Valley Development Group, L.L.C., filed with the Clerk of the Water Court on April 30, 1998, for approval of an augmentation plan for withdrawals of ground water from the Denver aquifer. The Court, having considered the pleadings, the stipulations of the parties, and the evidence presented, and being fully advised in the premises, enters the following findings of fact, conclusions of law, and ruling and decree:

FINDINGS OF FACT

1. Name and Address of Applicant.

Valley Development Group, L.L.C.
Stan Brown, Manager
6775 Roxborough Drive
Littleton, Colorado 80125

Please direct all correspondence or inquiries in this matter to:
Robert E. Schween, P.C., 6802 East Edgewood Drive
P.O. Box 262104, Highlands Ranch, Colorado 80163-2104
Telephone: 303-471-5150 Facsimile: 303-470-3103

2. History of the Case.

A. All ground water underlying the 920 acre parcel described in the application in this matter, as shown on the attached General Location Map, Exhibit A and described in Exhibit B hereto, is owned by the Applicant, Valley Development Group, L.L.C. The rights to such ground water were adjudicated by this Court and a decree issued in Case No. 87-CW-300, entered on May 27, 1992.

B. The average annual amounts available from each aquifer were based upon the State Engineer's Determination of Facts, issued in connection with the underlying ground water adjudication on April 29, 1988. Such amounts, by aquifer, are as follows:

<u>Aquifer</u>	<u>Decreed Ave. Annual Amount</u>
Denver	431
Arapahoe	532
Laramie-Fox Hills	248

C. Applicant is the owner of the overlying land as well as the ground water decreed underlying Parcel A in said Case No. 87-CW-300 (920 acres).

D. The application for approval of this plan for augmentation for such Denver aquifer withdrawals was filed with this Court on April 30, 1998. Statements of opposition to the application were filed by the City of Englewood; Centennial Water and Sanitation District; and the Colorado Division of Wildlife. No other statements of opposition nor any motions to intervene in this matter have been filed, and the time for filing same has expired.

3. Purpose of the Application:

The application in this matter was filed to adjudicate an augmentation plan to allow use of decreed ground water from the not nontributary Denver aquifer. Applicant intends to develop its land (920 acres) by partitioning same into 37 tracts or homesites, each of which would have its own Denver aquifer well to supply its domestic, irrigation, and stockwatering demands. Each home would use a nonevaporative waste water disposal system. The augmentation plan approved hereinbelow addresses only such Denver aquifer withdrawals.

4. Description and Source of Water Rights:

A. Source of Water Rights.

(1) Not Nontributary Ground Water: Denver Aquifer. The ground water contained in the Denver aquifer at this location is not nontributary ground water as defined in § 37-90-103(10.7), C.R.S. Withdrawals of such not nontributary ground water require pumping period replacement to the affected stream system of an amount of water equal to either 4% of the amount pumped or the actual depletions caused by pumping such wells, depending on the proximity of the wells to the stream system/aquifer contact point.

(2) The plan approved herein concerns Denver aquifer withdrawals requiring both types of replacements. Withdrawals of such not nontributary ground water also require replacement of actual depletions after cessation of pumping.

(3) Further, withdrawals from the Denver aquifer are limited to a total of 9,250 acre-feet, which amount is 92.5 acre-feet per year over a 100 year aquifer life (exclusive of any artificial recharge). This plan contemplates total withdrawals of up to only 92.5 acre-feet per year, or 2.5 acre-feet per year per residential tract.

(4) Applicant may withdraw an average amount of up to 92.5 acre-feet per year of not nontributary ground water from the Denver aquifer under a plan for augmentation pursuant to § 37-90-137(9)(c), C.R.S. The augmentation plan approved in this decree contains mechanisms to insure that depletions are calculated for all withdrawals from the Denver aquifer and that return flows generated are adequate to replace such depletions. To the extent necessary, direct discharge of water may be made to insure adequate replacement.

B. Well Permits.

(1) Well permit applications for the wells to be constructed pursuant to this decree will be applied for at such time as Applicant is prepared to construct such wells pursuant to the terms of the decree to be entered in this matter. If the well permit for any well authorized by this decree expires, Applicant, or its successor or assignee, may apply for a new well permit for such well or wells at the time Applicant is ready to construct such well(s), and the State Engineer shall grant such permit(s) as allowed by § 37-90-137, C.R.S., and pursuant to the terms of the decree in this case.

(2) Withdrawals under this plan for augmentation may be made only from the Denver aquifer. Wells completed pursuant to this decree may be constructed anywhere on the overlying property, but the 37 wells contemplated will be adequately spaced to avoid well-to-well interference. Applicant has voluntarily waived the 600-foot well spacing requirement for the wells to be completed under this plan.

C. Names, Description, and Estimated Depths of Wells.

(1) The 37 Denver aquifer wells contemplated at full development of the property will be spaced as uniformly as possible throughout the property, shown on the General Location Map, Exhibit A, subject to specific needs of individual lot owners. It is estimated that the base of the Denver aquifer at this location is about 450 feet below land surface.

(2) Actual well completion depths may vary from one location to another based on topographical conditions at the well site.

5. Estimated Amounts and Rates of Withdrawal:

A. Average Annual Amounts Available.

(1) The average annual amount available from the Denver aquifer underlying the 920 acres owned by the Applicant was determined in the Water Court's decree in Case No. 87-CW-300. Such amount, based upon information contained in the Denver Basin Rules, 2 C.C.R. 402-6, and consistent with the State Engineer's Determination of Facts, issued on April 29, 1988, was determined to be 430 acre-feet per year.

(2) Applicant has dedicated 92.5 acre-feet per year for the development's use. Such amount shall be conveyed to a Property Owners' Association ("POA") or a pro-rata share thereof to each individual lot purchaser. Such amount is adequate to serve the proposed development for a period of 100 years.

B. Average Pumping Rates. The estimated average pumping rate for the wells to be constructed into the Denver aquifer at this location is approximately 25 gpm. Actual pumping rates may vary according to aquifer production capability at a particular location or well design.

6. Description of the Land Overlying Subject Ground Water:

A. Applicant is the owner of all Denver aquifer ground water underlying 920 acres of land, more or less, located in Sections 16 and 21, Township 7 South, Range 68 West of the 6th P.M., in Douglas County. Applicant has the right to withdraw such Denver aquifer ground water through the 37 individual Denver aquifer wells to be constructed on the property.

B. Such overlying land area is shown on the General Location Map, Exhibit A, attached hereto. Also, a legal description of the property is attached to this ruling as Exhibit B.

7. Proposed Uses:

A. Applicant and the successor POA or the individual land owners, collectively, are entitled to use an average annual amount of 92.5 acre-feet per year from the Denver aquifer for up to 100 years pursuant to this plan for augmentation. Such water is to be used to serve the water demands of the residential development planned for the land area. Such uses include domestic, irrigation, and stock watering uses.

B. Such water may also be used for replacement of depletions resulting from the use of this water, and for augmentation purposes pursuant to the plan for augmentation approved herein. Return flows in excess of those needed for augmentation purposes under the plan therefor contained herein shall be owned by the Applicant. Accordingly, Applicant may pursue a plan for augmentation, for the recapture and reuse of such excess return flows, pursuant to separate application. Such right to recapture and reuse such return flows is not adjudicated in this ruling and decree.

8. Conditions: For each well constructed pursuant to this decree, the POA or the individual lot owner shall comply with the following terms and conditions:

A. Totalizing Flow Meters. A totalizing flow meter must be installed on the well prior to withdrawing water therefrom. The POA shall keep accurate records of all withdrawals from each well and shall submit such records or a summary thereof to the Water Division 1 Engineer annually or as otherwise requested.

B. Geophysical Logs. The entire length of a constructed well's open bore hole shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources. Applicant may provide a geophysical log from an adjacent well or test hole, pursuant to Rule 9A of the Statewide Rules and acceptable to the State Engineer, which fully penetrates the aquifer, in satisfaction of the above requirement.

C. Preservation of Aquifer Integrity. The ground water production shall be limited to the Denver aquifer. Plain, unperforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of water from zones other than those for which the well was designed.

D. Well Identification. Each well constructed in the development shall be identified with an above ground surface sign indicating the well owner's name, well permit number, the aquifer into which the well is completed, and this Water Court case number.

**Plan for Augmentation of Depletions Caused by Withdrawals of
Not Nontributary Denver Aquifer Ground Water.**

9. Structures to be Augmented: A total of thirty-seven (37) wells will be completed into the not nontributary Denver aquifer underlying the 920 acres of land described herein at Exhibit B. The average annual amount of ground water available from the Denver aquifer through such wells is limited by the terms of this ruling and decree to 92.5 acre-feet.
10. Description of Property to be Served: Applicant plans to build 37 residences on the property described in Exhibit B hereto, with each residence situated on a parcel (lot) of not less than about ten (10) acres in area. Each residence will be served by one individual well constructed into the Denver aquifer. Each residence will be equipped with a non-evaporative waste water disposal system.
11. Water Rights to be Used for Augmentation Purposes:
- A. During Planned 100 Years of Pumping: Return Flows.
- (1) For simplicity, Applicant has chosen to designate the SW 1/4 and the SW 1/4, NW 1/4 of Section 16 and all land in Section 21, except the NE 1/4, NE 1/4 thereof (see Exhibit A), as the area under which the replacement requirement is limited to 4% of the amount pumped. Under the remaining land in Section 16, the replacement requirement is that actual (modeled) stream depletions must be replaced. Depletions from all pumping could rise to as much as 9.4% of the maximum amount pumped by the 130th year after pumping begins, assuming full pumping for 100 years. See Exhibit D-3.
- (2) By means of bore-hole drilling, Applicant has demonstrated the existence of a continuous ground water table underlying the property. Accordingly, it is a reliable assumption that water will return to the stream system by percolation from individual non-evaporative wastewater (septic) systems on the property and from lawn and garden irrigation, as applicable.
- (3) Such return flows will accrue to Plum Creek and will operate to replace stream depletions in Plum Creek resulting from withdrawals of all not nontributary ground water during the pumping phase, in conformance with the requirements of § 37-90-137(9)(c), C.R.S.

B. During the Post-Pumping Period: Other Sources or Laramie-Fox Hills Ground Water.

(1) Stream depletions caused by pumping all Denver aquifer wells will peak approximately 30 years after pumping ceases. See Exhibit D-3. Such depletions which occur after the period of pumping from the Denver aquifer as allowed herein will be replaced by delayed return flows from the municipal, domestic, and agricultural uses made of water pumped, from other sources as may be used to serve the development, or as provided below in paragraph 11B(2).

(2) Further, the Applicant shall convey to the POA the right to use of up to 92.5 acre-feet per year of nontributary Laramie-Fox Hills aquifer ground water to be used as a post-pumping replacement source, if needed. See Exhibit C. Therefore, after pumping ceases, if it is determined that the continuation of return flows described above in paragraph 11B(1) is inadequate to fully replace modeled stream depletions, then Applicant or its successors will be obligated to make up such deficit by direct discharge of such nontributary ground water to the stream, to the extent necessary. Such obligation shall operate as a covenant running with the land and shall be a required provision in the covenants which govern ownership of property in the subject land area.

12. Water and Sewer Service: The water rights described herein will be used to provide a water supply to a maximum of 37 homes ("tracts"), each located on a lot of approximately ten acres or larger in the area within the property shown on Exhibit A. Outside uses will be limited to watering of not more than seven head of stock per tract and a maximum of 1,184,000 square feet of lawns and gardens (total). Such uses will be controlled by the covenants of the POA. Wastewater disposal will be by individual non-evaporative sewer systems.

13. Consumptive Use and Return Flows:

A. Estimates of such data are as follows:

<u>Total Maximum Average Annual Withdrawals</u>	<u>Acre-Feet Per Year</u>
Domestic Wells (.43 AF/Home)	16.0
Irrigation (2.0 AF/Home)	74.0
Stock Watering (.07 AF/Home)	2.5
TOTAL	92.5

Calculated Return Flows

Domestic Uses (16.0 AF/Yr. x 90%)	14.4
Irrigation (74.0 AF/Yr. x 10%)	7.4
Stock Watering (2.5 AF/Yr. x 0%)	<u>-0-</u>
TOTAL	21.8

[The above numbers are approximate and are used herein for illustrative purposes.]

B. Such generated return flows of up to 23.6% of the amount withdrawn greatly exceed the maximum modeled stream depletion caused by such pumping of 9.4%, or 8.2% during the first 100 years of pumping.

C. Withdrawals for the combined domestic, lawn and garden irrigation, and stock watering uses shall not exceed the average annual amount of 2.5 acre-feet per lot. This limitation shall be included in the development's covenants.

14. Replacement of Plum Creek Depletions:

A. During Pumping Period.

(1) Because development planning has not yet been completed, Applicant cannot predict the number of "actual" and 4% Denver aquifer wells to be constructed. Once the development plan has received preliminary plat approval, Applicant will provide a map to the Division Engineer defining which lots (wells) must be permitted as "actual" replacement wells and which may be permitted as 4% replacement wells. Further, at that time, Applicant will revise the attached draft accounting form (Exhibit D) accordingly.

(2) Return flows from contemplated uses are estimated to be about 20 acre-feet per year and will more than offset modeled stream depletions during the pumping period. Such return flows constitute a wholly adequate replacement source.

(3) Excess return flows (flows calculated to return to the stream in excess of the modeled depletions) remain the property of the Applicant and may be recaptured and reused under the law; PROVIDED THAT --

(a) All replacement obligations are met; and
(b) Such excess amounts are properly quantified, and judicial approval is obtained, after separate application, for the recapture of such specified quantity.

(4) Such recapture and reuse plan is not sought and not adjudicated, however, by this plan for augmentation.

B. Post-Pumping Depletions.

(1) Modeled Depletions -- Numeric computer modeling of the withdrawals from the Denver aquifer, based on 100 years of pumping and limited to 92.5 acre-feet per year from the 37 wells as proposed, indicates that depletions will never exceed approximately 9.4% of the annual amount pumped from all wells. See Stream Depletion Table, attached as part of Exhibit D-3 hereto.

(2) With regard to such stream depletions which occur after well pumping ceases, the Court finds at this time that such depletions must be replaced in the percentages indicated in Exhibit D-3, and such depletions are adequately replaced by the terms of this plan for augmentation. Nevertheless, the Court will retain jurisdiction on this determination as indicated herein. Any person may invoke the Court's retained jurisdiction to reassess this matter, pursuant to paragraph 25, below.

(3) The Court finds that depletions to the stream system which continue after the full annual average amount of Denver aquifer ground water is used to serve this development will be adequately replaced by one or a combination of the following means:

(a) Once pumping ceases, whether in 20 years or 100 years, the development on the land will continue to be supplied with water for domestic and lawn irrigation purposes. It is reasonable to assume there will be a continuation of return flows to the stream system generated by this new or replacement source of water supply. Such newly generated return flows will be adequate, in all probability, to replace any post-pumping depletive effects. The Court retains jurisdiction on this finding to ensure compliance with governing law.

(b) Any deficit of post-pumping replacement obligations will be filled by direct discharge of reserved nontributary Laramie-Fox Hills ground water.

(4) Operation of Post-Pumping Augmentation Plan:

(a) Applicant shall reserve the Laramie-Fox Hills aquifer ground water so that this source may be used for post-pumping replacement purposes. Applicant shall convey such reserved nontributary ground water resource to a Property Owners Association ("POA") to be created in connection with the subdivision of the property. Except as provided below, such reserved ground water shall not be sold or used for other purposes until the Court approves same by means of a subsequent Order pursuant to the Court's retained jurisdiction.

(b) Post-pumping replacement is required. Upon application to this Court, however, Applicant may use other legally available augmentation supplies which are sufficient in quantity, time, and place to meet projected injurious depletions. Notice of use of such alternative source(s) will be given to parties and a separate application therefor will be filed in the Water Court so that all interested persons may file statements of opposition as in a standard water matter. The Court retains jurisdiction in this matter to determine if such supply is adequate.

(c) Upon subdivision of the property, Applicant shall create a POA, which all purchasers of lots shall be required to join, and which shall undertake Applicant's rights and obligations under this decree. Applicant shall assign to the POA 9,250 acre-feet of decreed ground water in the Laramie-Fox Hills aquifer to meet such obligations. A copy of the articles and bylaws of such POA shall be sent to the State Engineer and to all parties.

(d) Applicant shall also create restrictive covenants upon and running with the land, which shall obligate the individual purchasers and the POA to carry out their responsibilities pursuant to the terms of this decree. Such covenants will provide actual notice to the POA that it may have the obligation to construct a Laramie-Fox Hills well in the future to replace stream depletions which occur after pumping from the Denver aquifer ceases. Such covenants shall indicate that failure of either the property owners or the POA to comply with the terms of this decree may result in an order of the Division Engineer to curtail pumping of the owners' wells.

(e) Accounting for post-pumping depletions shall continue for the shortest of the following periods:

- (i) The period provided by statute;
- (ii) The period specified by any subsequent change in statute;
- (iii) The period required by this Court under its retained jurisdiction;
- (iv) The period determined by the State Engineer; or
- (v) The period as established by Colorado Appellate or Supreme Court pronouncements.

(f) Should the requirement to account for and replace such post-pumping depletions be abrogated for any reason pursuant to the retained jurisdiction of the Court, then the property owners and the POA shall accordingly be released from their obligations in that regard, and the reserved Laramie-Fox Hills aquifer ground water shall be conveyed back to the Applicant or its successors.

15. Administration of Plan for Augmentation:

A. **Reporting Frequency.** Applicant shall maintain records showing the metered withdrawals from the subject wells, including any replacement or additional wells thereto, and calculated return flows on an accounting form acceptable to the Division 1 Engineer. A summary report shall be submitted to both the Water Division 1 Engineer and the State Engineer annually. A proposed Accounting Form to satisfy these requirements is attached hereto at Exhibit D.

B. **Meters.** All withdrawals from wells subject to this decree will be metered.

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.

CONCLUSIONS OF LAW

16. Jurisdiction:

The Water Court has jurisdiction over the subject matter of this application pursuant to §§ 37-92-302(2) and 37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law. The nature and extent of the water rights claimed herein are defined by §§ 37-90-137(4) and -137(9), C.R.S. The application should be granted, subject to the provisions of this decree. Vested or conditionally decreed water rights of others will not be materially injured by the withdrawals decreed herein.

17. Augmentation Plan for Withdrawal of Decreed Ground Water:

A. The augmentation plan for the replacement of depletions caused by withdrawals of not nontributary Denver aquifer ground water is wholly adequate to prevent injury during the period of pumping operations and satisfies the requirements of § 37-90-137(9)(c), C.R.S.

B. Whether post-pumping depletions are injurious is a question of fact for determination by the trial court. Danielson v. Castle Meadows I, 791 P.2d 1106 (Colo. 1990); State Engineer v. Castle Meadows, 856 P.2d 496 (Colo. 1993).

DECREE OF THE COURT

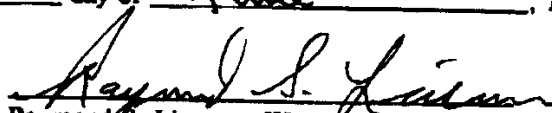
18. The Findings of Fact and Conclusions of Law set forth above are hereby incorporated into the terms of this Decree as if same were fully set forth herein.
19. Full and adequate notice in the application in this matter was given, and the Court has jurisdiction over the subject matter and over the parties, whether they have appeared or not. For the purposes of jurisdiction over this matter, § 37-92-302(2), C.R.S., does not require that the application be supplemented with a well permit or evidence of well permit denial.
20. Applicant may withdraw the average annual amount of 92.5 acre-feet from the Denver aquifer underlying its land described herein.
21. This decree confirms Applicant's right to withdraw the specified amount of ground water from the Denver aquifer pursuant to the plan of augmentation approved hereby, subject to the limitations herein and the retained jurisdiction of this Court; PROVIDED HOWEVER, Applicant may not withdraw Denver aquifer ground water in excess of a total of 9,250 acre feet (92.5 acre-feet x 100 years), under this plan.
22. Applicant has complied with all requirements and met all standards and burdens of proof, including but not limited to the requirements contained in §§ 37-90-137(9)(c), 37-90-103(9), 37-92-302, 37-92-304(6), 37-92-305(1),(2),(3),(4),(5),(6), and (8), C.R.S., to adjudicate this plan for augmentation. The plan for augmentation described in the Findings of Fact, above, is hereby approved, confirmed, and adjudicated, including and subject to the terms and conditions specified in the foregoing Findings of Fact. Further, the State Engineer must issue well permits in accordance with the ruling and decree herein, as well as in accordance with §§ 37-90-137(4) and/or (10), C.R.S.
23. No owners of or persons 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.
24. Upon entry of this decree of the Water Court, Applicant shall promptly have the decree recorded in the Douglas County Clerk and Recorder's Office.

25. Continuing Jurisdiction Under the Plan for Augmentation:

A. The Court retains jurisdiction over this matter on the questions of injury to other water rights and for the purpose of determining compliance with the terms and conditions of the augmentation plan decreed hereby.

B. Any person seeking to invoke the Court's jurisdiction over this decree shall file a verified petition with the Court. The petition shall set forth with particularity the factual basis upon which the requested reconsideration is premised, together with the proposed decretal language to effect the petition's request. The person lodging the petition shall have the burden of going forward to establish the *prima facie* facts alleged in the petition.

RULING ENTERED this 30 day of June, 1999.

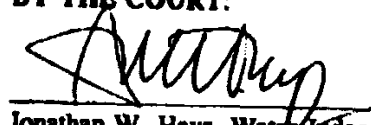

Raymond S. Liesman, Water Referee
Water Division 1

THE COURT DOTH FIND: NO PROTEST TO THE RULING OF THE REFEREE HAS BEEN FILED. THEREFORE --

THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS HEREBY MADE THE JUDGMENT AND DECREE OF THIS COURT.


DECREE ENTERED this _____ day of JUL 26 1999, 1999.

BY THE COURT:


Jonathan W. Hays, Water Judge
Water Division 1
State of Colorado

APPROVED AS TO FORM AND CONTENT:

ROBERT E. SCHWEEN, P.C.

By:  Date: 10 - December - 1998
Robert E. Schween, No. 12923
6802 East Edgewood Drive
P.O. Box 262104
Highlands Ranch, Colorado 80163-2104
Telephone: 303-471-5150
Facsimile: 303-470-3103
ATTORNEY FOR APPLICANT VALLEY DEVELOPMENT GROUP, L.L.C.

CHRISMAN, BYNUM & JOHNSON, P.C.

By: (See Stipulation, attached) Date: _____
David G. Hill, No. 921
Jack M. Graves, No. 24576
1900 - 15th Street
Boulder, Colorado 80302
Telephone: 303-546-1300
Facsimile: 303-449-5426
**SPECIAL WATER COUNSEL FOR OBJECTOR
CITY OF ENGLEWOOD**

MOSES, WITTEMYER, HARRISON & WOODRUFF, P.C.

By: (See Stipulation, attached) Date: _____
Veronica A. Sperling, No. 14310
Gilbert Y. Marchand, Jr., No. 19870
P.O. Box 1440
Boulder, Colorado 80306-1440
Telephone: 303-443-8782
Facsimile: 303-443-8796

FOR THE ATTORNEY GENERAL

(By Verbal Consent to Water Referee)
By: _____ Date: _____
Steven O. Sims, No. 9961
Assistant Attorney General
Natural Resource Section
1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: 303-866-5042
Facsimile: 303-866-3558
ATTORNEYS FOR OBJECTORS DIVISION OF WILDLIFE

Case No. 98-CW-262, Water Division 1

TABLE OF EXHIBITS

<u>Exhibit No.</u>	<u>Exhibit Name</u>
A	General Location Map.
B	Legal Description of Property.
C	Conveyance Document to Property Owners' Association.
D	Augmentation Plan Accounting Form. <ol style="list-style-type: none">1. Summary Form.2. Well Meter and Water Use Table.3. Section 16 Stream Depletions.

c: Valley98CW262.RUL

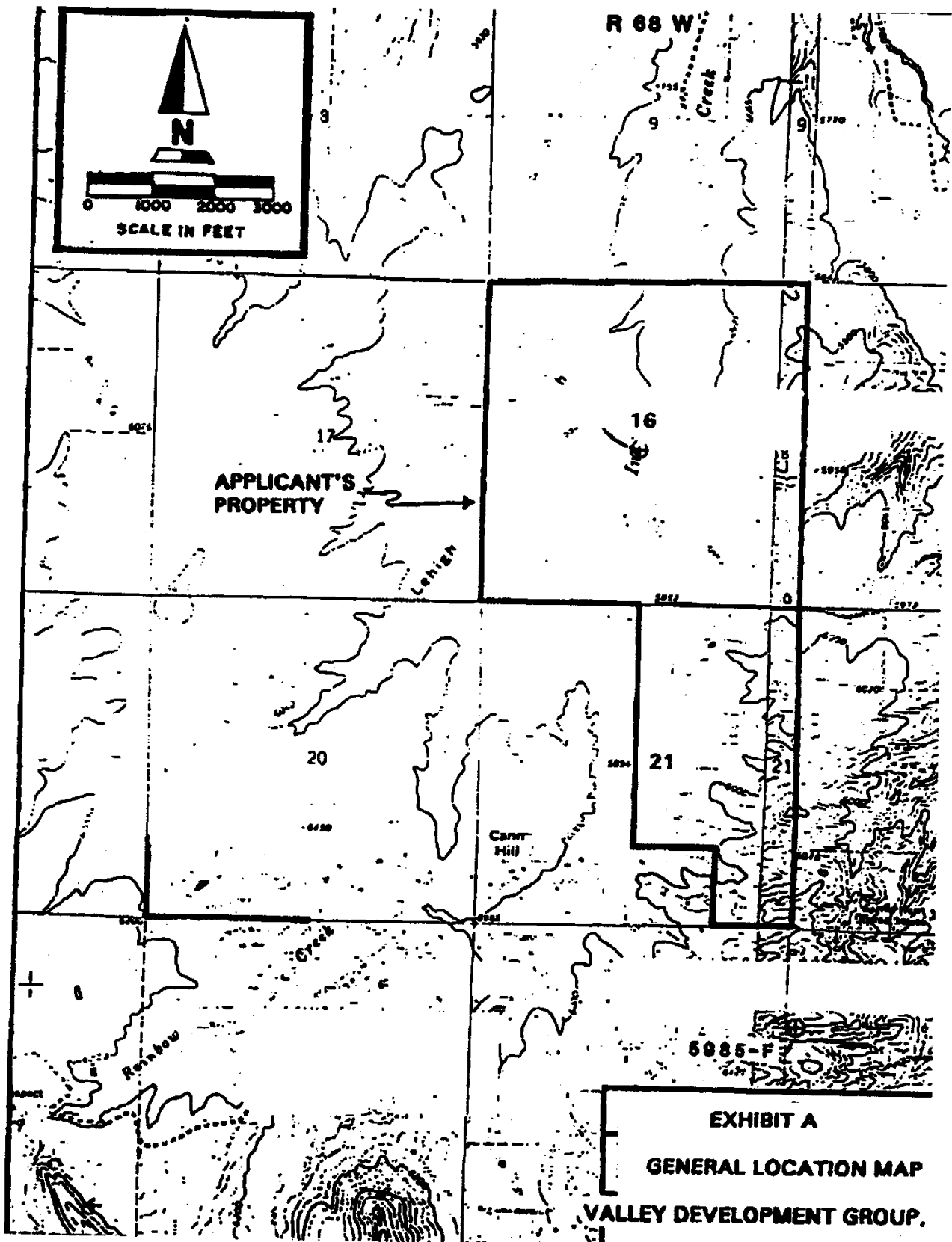


EXHIBIT B

Description of property owned by Applicant Valley Development Group, L.L.C., and the subject of the foregoing application:

All of Section 16; the NE 1/4, the N 1/2 of the SE 1/4 , and the SE 1/4 of the SE 1/4 of Section 21; all in Township 7 South, Range 68 West of the 6th P.M., Douglas County, Colorado.

C: Valley/Esh.-B.Doe

99070471 - 08/12/99 08:09 - CAROLE R. MURRAY DOUGLAS CO. COLO. CLERK & RECORDER
B1743 - P1333 - \$290.00 - 53/ 58

DRAFT

SPECIAL WARRANTY DEED
(Laramie-Fox Hills Aquifer Ground Water)

GRANTOR: Valley Development Group, L.L.C.
8 Inverness Drive East, Suite 245
Englewood, Colorado 80112

GRANTEE: Lambert Ranch Property Owners' Association
6775 Roxborough Drive
Littleton, Colorado 80125

A. Grantor, for good and valuable consideration, the sufficiency of which is hereby acknowledged, and pursuant to the decree of the Water Court, Water Division 1, in Case No. 98-CW-262, hereby grants and conveys to Grantee and its assigns and successors the following ground water right:

1. The right to withdraw and use 92.5 acre-feet per year of "nontributary" ground water from the Laramie-Fox Hills aquifer, as adjudicated in Case No. 87-CW-300, Water Division 1. All such Laramie Fox Hills aquifer ground water shall be withdrawn in accordance with and pursuant to all terms and conditions contained in such decree, and shall be used for the purpose of replacement of "post-pumping" depletions, as required by the decree in Case No. 98-CW-262, Water Division 1.

2. In accordance with the terms of such decree in Case No. 98-CW-262, Water Division 1, if the requirement to make such post-pumping replacements is abrogated prior to the time that the replacement program is implemented, then such Laramie-Fox Hills aquifer ground water right granted herein shall revert to the Grantor or its successors.

B. Grantor hereby warrants the above conveyed water rights from all claims arising through Grantor.

Signed this _____ day of _____, 1998.

GRANTOR: VALLEY DEVELOPMENT GROUP, L.L.C.

By: _____

P. David Crane
Manager

EXHIBIT C

99070471 - 08/12/99 08:09 - CAROLE R. MURRAY DOUGLAS CO. COLO. CLERK & RECORDER
B1743 - P1334 - \$290.00 - 54/ 58

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this ____ day of December, 1998, by
P. David Crane, as Manager, Valley Development Group, L.L.C.

Witness my hand and seal.
My Commission expires: _____.

[SEAL] _____
Notary Public

cl...FOA.DED

Valley Development Group, LLC
Case No. 98-CW-262
Augmentation Plan Accounting

A. Total Withdrawal [last year line D.]

B. Total Denver "Actual" Withdrawal [Table I B(col.6)]

C. Total Denver "4%" Withdrawal [Table I B(col.6)]

D. Total Withdrawal Since Pumping Began [A + B + C]

E. Year Since Pumping Began [Current Year - 1999]

F. Stream Depletion Factor (as % from Exhibit A) [E. rounded up to nearest 10]

G. Stream Depletion (af) [B. * F/100]

H. Stream Depletion (af) [C. * .04]

I. Return Flows [Table I - (C. + F.)]

J. Non-tributary Pumping

K. Net Depletion [G + H - I - J]

Year	
South Platte	

DRAFT

EXHIBIT D

D-1

Table 1
Case No. 98-CW-262
Well Meter and Water Use

Well Name	col. 1 No. Horses	Well Meter Readings (gal.)					Return Flows			
		col. 2 Last Year Oct. 31	col. 3 Last Year Dec. 1	col. 4 This Year Feb. 28/29	col. 5 This Year Oct. 31	col. 6 Total	col. 7 Base Use	col. 8 Irrig. Use	Residents	Irrigation
Actual										
Lot - 1									(1)	(2)
Lot - 2										
Lot - 3										
Lot - 4										
Lot - 5										
A. Total (gal.)										
B. Total (af)	-									
C. Returns (af)										
4%										
Lot - ?										
Lot - ?										
D. Total (gal.)										
E. Total (af)										
F. Returns (af)										

Explanation:
Col. 6 = Col. 5 - Col. 2
Col. 7 = (Col. 4 - Col. 3) / 3 * 12
Col. 8 = Col. 6 - Col. 7
(1) (Col. 7 * .9) - (Col. 1 * .02)
(2) Col. 8 * .15
B. & E. Line A. & D. / 326000
C. B(1) + B(2)
F. E(1) + E(2)

DRAFT

EXHIBIT A
 LAMBERT PROPERTY DENVER "DEON"
 SECTION 16
 STREAM DEPLETION
 (as % q/Q)

YRS.	TOTAL
10	0.23
20	0.71
30	1.41
40	2.27
50	3.22
60	4.22
70	5.24
80	6.25
90	7.24
100	8.20
110	8.80
120	9.17
130	9.32
140	9.30
150	9.15
160	8.91
170	8.62
180	8.29
190	7.96
200	7.63
210	7.31
220	7.01
230	6.72
240	6.46
250	6.21
260	5.98
270	5.77
280	5.58
290	5.40
300	5.23
310	5.08
320	4.94
330	4.81
340	4.69
350	4.57
360	4.46
370	4.36
380	4.27
390	4.18
400	4.09

Well in 16/28/48W (40J2)

D-3

** TOTAL PAGE.23 **

99070471 - 08/12/99 08:09 - CAROLE R. MURRAY DOUGLAS CO. COLD. CLERK & RECORDER
 B1743 - P1338 - \$290.00 - 58/ 58