

May 7, 2026

Via Email Only

George Mattione
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Cherry Hills Village, CO 80111
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Re: Groundwater Review – Castle Rock Annexation

To Whom It May Concern,

Pursuant to an annexation application with the Town of Castle Rock (the “Town”), George Mattione (“Mattione”) has agreed to convey to the Town all the groundwater rights underlying a 10.381-acre parcel of land generally located in the NW¼ of Section 7, Township 8 South, Range 66 West, and the NE¼ of Section 12, Township 8 South, Range 67 West, of the 6th P.M., Douglas County, Colorado, also known by street address as 895 N. Ridge Road, Castle Rock (the “Property”).

This letter renders our opinion, based on the examination as described below, as to the current status of the groundwater between the period of September 30, 1966, to April 27, 2026, (the “Effective Date”), which is greater than the statutory adverse possession period. This letter does not offer any opinion on whether the groundwater provides sufficient quantities of water necessary for the Town’s uses. This letter does not provide any opinion regarding title to the Property. Finally, we did not review or analyze any documents related to any water quality issues or compliance with any state or local requirements regarding water quality.

This opinion is intended only for the use of Mattione in connection with the above-mentioned transaction. No other person is entitled to rely upon the opinions expressed herein now or at any time in the future.

DESCRIPTION OF THE GROUNDWATER RIGHTS

The groundwater being conveyed includes all of Mattione’s right, title, and interest in and to the following groundwater, including all beneficial right, title and interest in and to all water, whether tributary, nontributary, or not-nontributary, water rights, rights to use water, and all other assets, rights, title or interests represented by said water rights, historically used upon, decreed or permitted for use on, or otherwise appurtenant to the real property more particularly described therein.

The Denver Basin groundwater underlying the Property has been adjudicated in Water Court, Water Division 1. The Denver, Arapahoe, and Laramie-Fox Hills aquifers were adjudicated in Case No. 06CW201 (decree entered 2007), and the Lower Dawson aquifer was adjudicated as an exempt well in Case No. 91CW075 (decree entered 1992) and further addressed in Case No.

98CW376. Both adjudications were brought by J. Dean Bertelsen as owner of the overlying land. DWR permit records reflect that ownership of Well No. 190694 transferred from J. Dean Bertelsen to George Mattione effective June 25, 2024. The Upper Dawson aquifer has not been adjudicated. Per Case No. 06CW201, no part of the Property lies within a designated ground water basin; the Property is administered under Denver Basin nontributary groundwater law, C.R.S. § 37-90-137. Note: Case No. 06CW201 was adjudicated on the basis of 10.55 acres per the 2006 application and the State Engineer's Determination of Facts; Douglas County parcel records reflect 10.381 acres. The decreed amounts are fixed by the decree as entered and will not be adjusted solely by reason of this difference absent an invocation of the Court's retained jurisdiction.

The decreed average annual amounts of withdrawal are as follows:

- Denver Aquifer (Nontributary): 6.6 AF/yr (Case No. 06CW201)
- Arapahoe Aquifer (Nontributary): 5.2 AF/yr (Case No. 06CW201)
- Laramie-Fox Hills Aquifer (Nontributary): 2.7 AF/yr (Case No. 06CW201)
- Lower Dawson Aquifer – Well No. 190694 (Exempt Well, Absolute): 0.015 cfs (6.7 gpm), limited to 2.1 af/yr; appropriation date September 12, 1961; use: domestic in one single family dwelling including irrigation of ½ acre and stockwater; exempt from State Engineer administration per C.R.S. § 37-92-602. Permit 190694 was issued October 18, 1995 as a replacement for expired Well No. 161925 under Case No. 91CW075. The well was constructed July 20, 1998 and the pump installed August 2, 1999. The right was adjudicated absolute in Case No. 98CW376 (decree entered October 2001). DWR records confirm permit status as “Well Constructed” and the well is associated with the Property at 895 N. Ridge Rd., Castle Rock.
- Lower Dawson Aquifer – Well No. 161925 (Expired): The conditional decree in Case No. 91CW075 (July 1992) established Well No. 161925 as a conditional exempt well at 0.033 cfs (15 gpm), limited to 2.1 af/yr, with an appropriation date of October 7, 1991. Per DWR Hydrobase records, permit 161925 status is “Permit Expired” and is listed as the associated predecessor permit to Well No. 190694. The 91CW075 conditional decree is superseded by the replacement well permitting and the absolute decree in Case No. 98CW376. No separate active right exists under 91CW075 apart from the adjudication reflected in 98CW376.
- Upper Dawson Aquifer: not adjudicated. Per the DWR Exempt Well Data Sheet prepared in connection with the 1995 permit application for Well No. 190694, the Upper Dawson at this location is characterized as not-nontributary (NNT) with an estimated 0.620 AF/yr. As a not-nontributary aquifer, withdrawal of Upper Dawson groundwater would require both a court adjudication and an augmentation plan to replace out-of-priority depletions before any well could be permitted or put to use. The Upper Dawson interest, if any, remains inchoate and appurtenant to the overlying land.

The Lower Dawson, Denver, Arapahoe, and Laramie-Fox Hills rights are nontributary groundwater adjudicated under C.R.S. § 37-90-137(4). They are vested property rights not subject to priority administration, and no augmentation plan is required for their use. The decreed amounts are calculated on a 100-year aquifer life but may be extended to 300 years or longer with proportional reductions in annual withdrawal. The decree retains jurisdiction to adjust average annual amounts based on actual aquifer data obtained from completed wells. Upon conveyance, the rights run with the land by deed identifying the case number, specific aquifer, and annual or total volume being conveyed. The decree authorizes use for domestic, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection, and any other beneficial purpose, on or off the Property, including municipal use if conveyed to a municipal water supplier; reuse and successive use are also authorized. The Upper Dawson aquifer has not been adjudicated, and, based on the DWR Exempt Well Data Sheet, would be characterized as non-tributary (NNT); withdrawal would require both an adjudication and an augmentation plan under C.R.S. § 37-90-137(9) before a well could be permitted or put to use. We reviewed Case Nos. 91CW075, 98CW376, and 06CW201 in connection with this review.

Subject to the chain of title review, if the recorded chain of title reflects no severance or reservation of groundwater, the adjudicated groundwater rights and any unadjudicated inchoate interests in the Upper Dawson aquifer remain appurtenant to and run with the Property. Any future development, permitting, or exercise of these groundwater rights must comply with the statutes and rules governing Denver Basin nontributary and not-nontributary groundwater, including C.R.S. § 37-90-137 and the Denver Basin Rules, 2 CCR 402-6, and with the terms and conditions of the decrees in Case Nos. 06CW201 and 98CW376.

DESCRIPTION OF WELL RIGHTS

Well Permit No. 190694 was originally issued October 18, 1995, to J. Dean Bertelsen, as a permit for the construction of a replacement well for expired Well No. 161925, under Case No. 91CW075. The permit was approved pursuant to C.R.S. § 37-92-602(3)(b)(I) for use in the nontributary Lower Dawson Aquifer (interval 665–875 feet below ground surface). The original permit expiration date of October 18, 1997, was extended to October 18, 1998; the well was constructed July 20, 1998, and the pump was installed August 2, 1999.

The permit conditions of approval limit use to ordinary household purposes inside one single-family dwelling, watering of domestic animals, and irrigation of not more than 35,000 square feet of home gardens and lawns, at a maximum pumping rate of 15 gpm and an annual withdrawal limit of 2.1 acre-feet. The permit also requires return flow through an individual wastewater disposal system sufficient to return not less than 2% of total withdrawals to the same stream system.

The well was adjudicated absolute in Case No. 98CW376 (decree entered October 2001) at 0.015 cfs (6.7 gpm), limited to 2.1 af/yr, with an appropriation date of September 12, 1961, for domestic use in one single-family dwelling including irrigation of ½ acre and stockwater. DWR Hydrobase records confirm permit status as "Well Constructed." The permit history reflects an

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administrative extension on July 18, 2007, and a change in owner name/ mailing address to George Mattione effective June 25, 2024.

Note regarding the owner name change: The Change of Owner Name/Contact Information form filed June 25, 2024, updated the permit contact to George Mattione. That form expressly states that it is for contact information purposes only and does not convey real property. The water right itself is conveyed through the land title; the permit name change is an administrative record update under C.R.S. § 37-90-143.

Note regarding parcel acreage: DWR permit records reflect a parcel size of 10.74 acres, consistent with the 1966 warranty deed. Douglas County parcel records reflect 10.381 acres, and the 06CW201 decree was based on 10.55 acres. The exempt well permit has not been re-permitted to reflect any adjusted acreage. In connection with a 2017 subdivision review (Case No. SB2017-030), the State Engineer's Office advised that exempt wells are limited to the quantity of water underlying the lot on which they are located, and that if the parcel were divided the well would need to be re-permitted to reflect the acreage of the lot it serves. No subdivision has occurred, and no re-permitting is required solely by reason of this annexation; however, the Town should be aware that the 2.1 af/yr annual limit is tied to the parcel as currently configured.

CHAIN OF TITLE

Mattione's title to the Property and groundwater derives from a Quit Claim Deed dated July 27, 2023, and recorded on July 28, 2023, at Reception No. 2023032354 of the Douglas County, Colorado real property records, from Parker Center, LLC.

Parker Center LLC's title to the Property and groundwater derives from a Special Warranty Deed dated March 14, 2022, and recorded on March 15, 2022, at Reception No. 2022018716 of the Douglas County, Colorado real property records, from the James Dean Bertelsen Trust.

The James Dean Bertelsen Trust's title to the Property and groundwater derives from a Special Warranty Deed dated June 13, 2008, and recorded the same day at Reception No. 2008042214 of the Douglas County, Colorado real property records, from J. D. Bertelsen.

J. D. Bertelsen's title to the Property and groundwater derives from a Quit Claim Deed dated November 16, 2006, and recorded on the same day at Reception No. 2006098288 of the Douglas County, Colorado real property records, from J. D. Bertelsen.

J. D. Bertelsen's title to the Property and groundwater derives from a Warranty Deed dated September 12, 1966, and recorded on September 30, 1966, at Reception No. 126273 of the Douglas County, Colorado real property records, from J. Omer Memmen and Verneta C. Memmen.

CONCLUSION

In summary:

1. The chain of title seems to reflect no severance of groundwater from the Property.
2. The groundwater underlying the Property, including the adjudicated rights in Case Nos. 06CW201, 91CW075, and 98CW376, appears to remain appurtenant to and owned with the overlying land, subject to confirmation of the chain of title.
3. The Property does not lie within a designated ground water basin. The Denver Basin groundwater is administered under C.R.S. § 37-90-137.
4. The Denver, Arapahoe, and Laramie-Fox Hills aquifer rights are adjudicated in Water Court Case No. 06CW201 (decree entered 2007) at 6.6, 5.2, and 2.7 AF/yr, respectively, subject to the Court's retained jurisdiction for final quantification. The Lower Dawson aquifer is adjudicated absolute as Well No. 190694 in Case No. 98CW376 (decree entered October 2001), at 0.015 cfs (6.7 gpm) limited to 2.1 af/yr; the earlier conditional decree under Case No. 91CW075 for Well No. 161925 is superseded by the replacement permitting and permit 161925 has expired per DWR records. The Upper Dawson aquifer is not adjudicated, and, based on the DWR Exempt Well Data Sheet, would be characterized as not-nontributary (NNT), requiring adjudication and an augmentation plan before use.

This letter is based solely on the documents provided and the public records referenced above and is not a title opinion.

SCOPE OF EXAMINATION

During our investigation of title to the groundwater, we performed the following work:

- We searched the Douglas County Clerk and Recorder's online grantor and grantee indices from September 30, 1966, to the Effective Date of this review, for any documents or instruments referencing Mattione, Bertelsen, and all variants thereof, as either grantor or grantee.
 - All instruments identified by the foregoing search were downloaded and reviewed.
- We reviewed the Colorado Division of Water Resources online well permit records and Hydrobase.
- We searched the Colorado Secretary of State's UCC records by "Debtor Name" for George Mattione.

This letter does not provide a full title review of the water rights associated with the annexation agreement, but only an analysis of the current status of the groundwater based on those publicly available documents stated above.¹ Our analysis may change based on the discovery of additional documents not currently available on those public websites.

EXCEPTIONS AND LIMITATIONS

Our opinion herein is limited to issues revealed by the documents we have reviewed. Other documents may exist that could affect title to the groundwater, but without knowledge of such documents we cannot assess any potential impact as to title. The following matters are expressly excluded from the scope of this review, and we offer no opinion as to:

- Any encumbrance or adverse claim arising from any document recorded after the Effective Date.
- Any encumbrance or adverse claim arising from any recorded or unrecorded document not specifically identifying Geroge Mattione.
- Any encumbrance or adverse claim arising from any document affecting title to the Groundwater that is not of record or not properly indexed in the office of the Douglas County Clerk and Recorder or any other applicable county.
- Any encumbrance or exception arising out of fraud, forgery or misrepresentation in connection with the documents reviewed.
- Any encumbrance or exception arising from reservations, exceptions and rights- of-way as contained in any United States patent.
- Any encumbrance or exception arising from taxes of any type, due or payable.
- Any encumbrance arising from the inclusion of land in any municipal or quasi-municipal boundaries.
- Any lien or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
- Any loss, damage, limitation of use or devaluation of the groundwater resulting from or related to administration under Colorado's priority system, waste, abandonment, physical supply, water quality, drought, development of conditional water rights, existing or unasserted reserved water rights for federal lands or Indian reservations, interstate compact, federal treaty, local, state or federal law or regulations, future

¹ Because we have no way of knowing whether the Douglas County Clerk and Recorder's Office uploaded to its website all relevant documents it physically has in its office, we cannot issue any opinion on title without physically confirming our research at the Douglas County Clerk and Recorder's Office.

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actions to adjudicate water rights, historical use and consumptive use, expansion of use, or matters contained in any decree of the Water Court.

- Any encumbrance or exception arising from claims to the groundwater that are adverse to the title of the persons named as claimants in the decrees adjudicating those water rights. Under Colorado law the adjudication of a water right does not conclusively establish the claimant as the owner of that water right, and this opinion must therefore be qualified accordingly.
- The legality of use of the groundwater for any particular purposes other than those decreed for the Rights, or the transferability of the groundwater to different purposes or locations.
- Any discrepancies between the actual and decreed location of the groundwater or other structures related to the groundwater.
- Title to easements or rights of access to the points of diversion or along ditches or other structures used to divert or convey the groundwater.
- Any facts or circumstances which may be evident upon inspection of any well or other structures or facilities used to divert and convey water pursuant to the groundwater.

Please feel free to call if you have any questions regarding any of the matters discussed in this letter.

Sincerely,



Eric K. Trout

Fairfield & Woods, P.C.