

15.00

RESTRICTIVE COVENANT AND AGREEMENT

BOOK 356 PAGE 510

THIS RESTRICTIVE COVENANT AND AGREEMENT, hereinafter "Agreement", is entered into this 27th day of July, 1983, by and between BZH LAND CO., a Colorado general partnership, of 1525 Market Street, Denver, Colorado, hereinafter "Grantor", and THE CITY of AURORA, COLORADO, the offices of which are located at 1470 So. Havana, Aurora, Colorado, hereinafter "Grantee".

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby confessed and acknowledged, does forever agree and covenant with Grantee, its successors and assigns forever as follows:

- 1. Grantor shall not irrigate the lands described in Exhibit B hereto (hereinafter "Lands") using waters the use of which would have a detrimental effect upon any decreed rights within the South Platte River Drainage system, State of Colorado, owned by Grantee.
- 2. Grantor shall not irrigate the Lands using waters the use of which would have a detrimental effect upon the use of the water rights which are described in Exhibit A hereto (hereinafter "Water Rights").
- 3. Grantor may irrigate the Lands using the Water Rights for so long as, and only for so long as, may be determined by Grantee.
- 4. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of Grantor and Grantee.
- 5. This Agreement shall run with the Lands.

Entered into as of the date first above-appearing.

BZH LAND CO.

By *Kenneth N. Zaring*  
Kenneth N. Zaring  
General Partner

ATTEST: 

By *Gail C. Johnson*  
Gail C. Johnson  
Deputy City Clerk

CITY OF AURORA, COLORADO

By *Dennis Champine*  
Dennis Champine  
Mayor

STATE OF COLORADO )  
 )  
COUNTY OF ARAPAHOE )

ss.

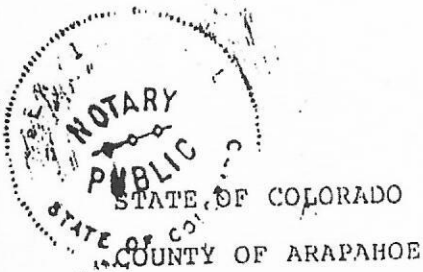
The foregoing Restrictive Covenant and Agreement was acknowledged before me this 27th day of July, 1983, by Kenneth N. Zaring as general partner of BZH Land Co., a Colorado general partnership.

My Commission Expires January 16, 1987

My Commission expires: \_\_\_\_\_

Witness my hand and official seal.

*[Signature]*  
\_\_\_\_\_  
Notary Public  
*1470 S. Harrison Aurora Co 80012*  
\_\_\_\_\_  
Address



)  
) ss.  
)

The foregoing Restrictive Covenant and Agreement was acknowledged before me this 27th day of July, 1983, by Dennis Champine as Mayor of the City of Aurora, Colorado, and Gail C. Johnston as Deputy City Clerk for the City of Aurora, Colorado.

My Commission Expires January 16, 1987

My Commission expires: \_\_\_\_\_

Witness my hand and official seal.

*[Signature]*  
\_\_\_\_\_  
Notary Public  
*1470 S. Harrison Aurora Co 80012*  
\_\_\_\_\_  
Address

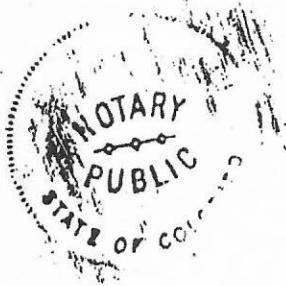


EXHIBIT A

- (1) An undivided one-quarter (1/4) interest in and to the Rogers Ditch, Basin Rank 1057, Priority No. 231, adjudicated October 30, 1893, appropriation date June 1, 1884, in the amount of 14.30 cfs for irrigation purposes; the source of water is High Creek tributary to the South Fork of the South Platte River; the point of diversion is located in the NW1/4, SE1/4, SW1/4 of Section 29, Township 10 South, Range 77 West of the 6th P.M., all in Park County, Colorado.
- (2) An undivided one-half (1/2) interest in and to the Rogers & Miller Ditch, Basin Rank 1534, Priority No. 236, adjudicated October 22, 1901, appropriation date May 27, 1901, in the amount of 25.0 cfs for irrigation purposes; the source of water is Twelve Mile Creek tributary to the South Fork of the South Platte River, the point of diversion is located in the NW1/4, SE1/4, NE1/4 of Section 3, Township 11 South, Range 78 West of the 6th P.M., all in Park County, Colorado.
- (3) All interest in and to the Binkley Ditch, Basin Rank 547, Priority No. 107, adjudicated October 18, 1889, appropriation date September 1, 1879, in the amount of 25.0 cfs for irrigation purposes; the source of the water is Twelve Mile Creek tributary to the South Fork of the South Platte River; the point of diversion is located in the NE1/4, NW1/4, NW1/4, of Section 13, Township 11 South, Range 78 West of the 6th P.M., all in Park County, Colorado.
- (4) All interest in and to the Binkley Ditch No. 2, Basin Rank 504, Priority NO. 92, adjudicated October 18, 1889, appropriation date August 1, 1878, in the amount of 20 cfs for irrigation purposes; the source of the water is Twelve Mile Creek tributary to the South Fork of the South Platte River; the point of diversion is located in the NW1/4, SW1/4, NW1/4 of Section 18, Township 11 South, Range 77 West of the 6th P.M., all in Park County, Colorado.
- (5) An undivided three-quarters (3/4) interest in and to the Burlingame Ditch, Basin Rank 503, Priority No. 93, adjudicated October 18, 1889, appropriation date August 10, 1878, in the amount of 27.0 cfs for irrigation purposes; the source of water is the South Fork of the South Platte River, the point of diversion is located in the NE1/4, NE1/4, NE1/4 of Section 19, Township 11 South, Range 77 West of the 6th P.M., all in Park County, Colorado.
- (6) All interest in and to the Souders and Wolfe No. 6, Basin Rank 943, Priority No. 213, adjudicated October 18, 1889, appropriation date May 25, 1887, in the amount of 11.68 cfs for irrigation purposes; the source of the water is the South Fork of the South Platte River; the point of diversion is located in the SW1/4, NE1/4, NE1/4 of Section 24, Township 11 South, Range 78 West of the 6th P.M., all in Park County, Colorado.

(7) All interest in and to the Winkler Ditch, Basin Rank 1044, Priority No. 297, adjudicated May 22, 1913, appropriation date June 1, 1879, in the amount of 1.5 cfs for irrigation purposes; the source of the water is Twelve Mile Creek tributary to the South Fork of the South Platte River; the point of diversion is located in the SE1/4, SW1/4, NE1/4 of Section 13, Township 11 South, Range 78 West of the 6th P.M., all in Park County, Colorado.

(8) All of Grantor's interest in and to the Drake Ditch, Priority No. 149; adjudicated for irrigation purposes; the source of water is Rough and Tumbling Creek tributary to the South Fork of the South Platte River; the point of diversion is in Park County, Colorado.

(9) All interest in and to the Humphrey Springs 1 & 2, File No. 16815, no priority, no adjudication, date of filing August 6, 1940, first date of use July 12, 1940, in the amount of 6.0 cfs for irrigation, stock-watering and domestic purposes; the source of water is tributary to the South Fork of the South Platte River; the points of diversion are located in Section 19, Township 11 South, Range 77 West of the 6th P.M., all in Park County, Colorado.

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## EXHIBIT B

The Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Thirty-Two (32), Township Ten (10) South, Range Seventy-Seven (77) West of the Sixth (6th) Principal Meridian.

The Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4), the South Half of the Northwest Quarter (S1/2 NW1/4), the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4), the West Half of the Southeast Quarter (W1/2 SE1/4), and the Southwest Quarter (SW1/4) of Section Five (5); the East Half of the Northeast Quarter (E1/2 NE1/4), the South Half of the Northwest Quarter (S1/2 NW1/4), and the South Half (S1/2) of Section Six (6); the North Half (N1/2), the North Half of the South Half (N1/2 S1/2), and the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Seven (7); the Northwest Quarter (NW1/4), the North Half of the Southwest Quarter (N1/2 SW1/4), and the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Eight (8); the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of Section Seventeen (17); the South Half of the North Half (S1/2 N1/2), the North Half of the Southwest Quarter (N1/2 SW1/4), and the Southeast Quarter (SE1/4) of Section Eighteen (18); all of Section Nineteen (19); the North Half (N1/2), and the West Half of the Southwest Quarter (W1/2 SW1/4) EXCEPT a one-acre tract located in the Northeast (NE) corner of the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of said Section Twenty (20), Township Eleven (11) South, Range Seventy-Seven (77) West of the Sixth (6th) Principal Meridian.

The Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4) of Section Two (2); the South Half of the Northeast Quarter (S1/2 NE1/4), the Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4), the East Half of the Southwest Quarter (E1/2 SW1/4) of Section Three (3); the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4), the West Half of the Northeast Quarter (W1/2 NE1/4), the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4), the North Half of the Southeast Quarter (N1/2 SE1/4), and the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Ten (10); the South Half (S1/2) of Section Eleven (11); the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4), the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4), and the West Half of the Southwest Quarter (W1/2 SW1/4) of Section Twelve (12); the North Half of the Northwest Quarter (N1/2 NW1/4), the Southwest Quarter of the Northwest Quarter (SW1/4 NW1/4), the West Half of the Northeast Quarter (W1/2 NE1/4), the Southeast Quarter of the Northeast Quarter (SE1/4 NE1/4), and the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) of Section Thirteen (13); the North Half (N1/2), and the North Half of the Southeast Quarter (N1/2 SE1/4) of Section Fourteen (14); the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of Section Twenty-Four (24), Township Eleven (11) South, Range Seventy-Eight (78) West of the Sixth (6th) Principal Meridian.

All in the County of Park, State of Colorado.