

Reception No. **287334** Date **AUG 22 1989**
Elbert County Recorder
By *Lucy M. Lloyd* At **11:47 AM**

BOOK **429** PAGE **10**

AMENDMENT TO DECLARATION OF
COVENANTS FOR PHASE I,
FOREST PARK SUBDIVISION,
ELBERT COUNTY, COLORADO

Declarants, Lawrence E. Frickey and Gene R. Taylor, hereby file amendments to certain Declaration of Covenants recorded in Book 407 at Pages 366 through 373 of the records of Elbert County, Colorado, which pertain to restrictions imposed on the respective lots and parcels of land situate in Forest Park Subdivision.

ARTICLE I

Purpose of Amendment

A. In order to insure to the ultimate owners of lands and residences of Forest Park Subdivision a potable water supply from the Upper Dawson groundwater aquifer and to provide to said owners the opportunity to obtain well permits for Upper Dawson wells from the State of Colorado, Division of Natural Resources, Office of the State Engineer, Declarants have obtained approval for a plan of augmentation from the District Court, Water Division 1, State of Colorado, in Case No. 88 CW 018.

B. The plan of augmentation approved by the Court allows issuance of Upper Dawson aquifer well permits for construction of Upper Dawson wells on lots located in Forest Park Subdivision. The Decree approving the plan of augmentation has, concurrent with this Amendment, been filed of record in the Clerk and Recorder's Office of Elbert County, Colorado, as have been the Articles of Incorporation and Certificate of Incorporation of the FOREST PARK HOMEOWNERS ASSOCIATION. In addition, and concurrent with the recording of this Amendment, Declarants have recorded their conveyance of the Lower Dawson aquifer water rights underlying the affected lots to the Homeowners Association and an easement for the augmentation well and recharge pit located on Lot 56 as required by the decree and judgment entered by the Water Court in Case No. 88 CW 018.

ARTICLE II

Area Subject to Amendments

This Amendment to the Covenants recorded in Book 407 at Page 366, et seq. of the records of Elbert County, Colorado,

shall affect all lots and parcels of land located in Forest Park Subdivision, except Lots 9, 21, 22, 23, 29, 33, 34, 36, 52, 56 and 57. These specifically designated lots are not covered by or subject to the Court Decree, nor are they subject to the provisions of these Amendments which pertain to conditions imposed by the Decree of the Water Court approving the plan of augmentation.

ARTICLE III

Amendments

The Declaration of Covenants for Phase 1, Forest Park Subdivision, Elbert County, Colorado, as recorded in Book 407 at Page 366, et seq. are hereby amended by the addition of the following:

1. The Forest Park Homeowners Association, Inc., a Colorado non-profit corporation, hereinafter referred to as "the Association", shall have the responsibility and duty to enforce and implement the decreed plan of augmentation approved by Court decree in Case No. 88 CW 018. Said decree is incorporated herein by reference as if fully set forth.

2. The Association shall operate and maintain the well and recharge pit located on Lot 56.

3. The Association shall be required to regularly inspect the well and recharge pit to assure same are in compliance with the decree.

4. The recharge pit shall be inspected by a professional engineer, employed by the Association, at least once every five years following 1989, and any reported deficiencies shall be corrected within thirty days of the date of the engineer's report.

5. The Association shall have the right to assess the pro rata costs of operation, maintenance, upkeep, inspection, repairs and/or replacement of the augmentation system against the lots covered under the plan.

6. Upper Dawson wells permitted and constructed on the affected lots have been allocated Upper Dawson water usage sufficient to supply water for specific approved uses. These allocations on an annual basis are:

In-house use	.30 acre/feet
Lawn Irrigation (2500 ft ² at 2.3 acre/feet per acre)	.13 acre/feet
Garden Irrigation (250 ft ²)	.01 acre/feet
Watering of 2 head of horses	.02 acre/feet
Total	.46 acre/feet per annum

Total annual usage for the 55 affected lots is 25.3 acre/feet per annum.

7. The Association may adopt rules and regulations to enforce the provisions of the decree and which are found to be necessary for continued operation of the plan of augmentation.

8. The approved pumping rate of the augmentation well is 30 g.p.m. The Association may exceed this rate in order to produce 26.7 acre/feet of water from the Lower Dawson aquifer on an annual basis to offset the combined uses of the affected lots, at full buildout and occupancy, and to satisfy the requirements of the plan and C.R.S. 37-90-137(9) (b).

The Declarants, being owners of more than 51% of the privately owned land included within the boundaries of Forest Park Subdivision and the 55 lots affected by the decree have approved and adopted this Amendment to the Declaration of Covenants recorded in Book 407 at Page 366, et seq. of the records of Elbert County, Colorado.

FOREST PARK PARTNERSHIP

Lawrence E. Frickey
Lawrence E. Frickey - Partner

Lawrence E. Frickey
Lawrence E. Frickey, Individually

Gene R. Taylor
Gene R. Taylor - Partner

Gene R. Taylor
Gene R. Taylor, individually

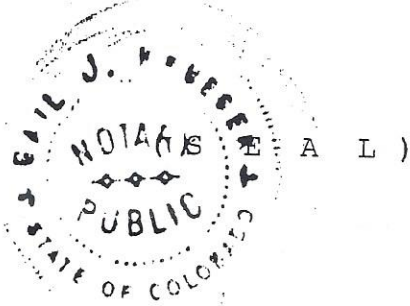
STATE OF COLORADO)
) ss.
COUNTY OF)

The foregoing Amendment to Declaration of Covenants for Phase I, Forest Park Subdivision, Elbert County, Colorado, was

subscribed and sworn to before me this 9th day of August, 1989, by Lawrence E. Frickey and Gene R. Taylor, individually and as the partners of Forest Park Partnership.

Witness my official hand and seal.

My commission expires: 9/19/91.



Gail Frickey
NOTARY PUBLIC

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