

<p>Supreme Court, State of Colorado Two East 14th Ave. Denver, Colorado 80203 (720) 625-5150</p>	
<p>Appeal from Weld County District Court Honorable Todd L. Taylor, Water Judge, Water Division 1 Case No. 19CW3220</p>	
<p>Franktown Citizens Coalition II, Inc., and West Elbert County Well Users Association</p> <p style="text-align: center;">Appellants,</p> <p style="text-align: center;">v.</p> <p>Independence Water and Sanitation District,</p> <p style="text-align: center;">Appellee.</p>	COURT USE ONLY
<p><i>Attorney for Appellants</i> John D. Buchanan, #45191 The Law Office of John D. Buchanan LLC 2806 N Speer Blvd Denver, Colorado 80211 Phone: (720) 413-2773 Email: john@jdbuchananlaw.com</p>	<p>Case Number:</p>
JOINT NOTICE OF APPEAL	

Appellants, Franktown Citizens Coalition II, Inc., and West Elbert County Well Users Association (“Well Owners”), pursuant to C.A.R. 3, respectfully submit the following Joint Notice of Appeal:

1. Description of the Nature of the Case

A. General statement of the nature of the controversy.

This case involves a water court application filed by the Appellee, Independence Water and Sanitation District (“District”), that requested amendment of a plan for augmentation for not nontributary groundwater rights. The District sought to add new types and places of use for the water rights to the existing plan for augmentation.

The Well Owners served discovery requests on the District seeking to identify any specific plans and intent the District had to use the water under the new requested types and places of use. The District did not identify a specific plan and intent to use the water rights for the new requested types and places of use and instead argued that the water court does not have jurisdiction to consider the anti-speculation doctrine because the application involved not nontributary groundwater rights.

Pursuant to a motion for summary judgment filed by the Well Owners, the water court agreed with the District and denied the motion, holding that, because the anti-speculation does not apply to adjudications of not nontributary groundwater rights, the water court could not apply the doctrine in the pending application to amend a plan for augmentation.

B. Judgment, order, or parts being appealed and the basis for appellate jurisdiction.

The Well Owners appeal the *Findings of Fact, Conclusions of Law, Judgment and Decree* issued on May 2, 2023, (“Final Decree”) by the Weld County District Court (“District Court”), Honorable Todd L. Taylor, and specifically the *Order Denying [Well Owners’] Motion for Summary Judgment Pursuant to C.R.C.P. 56* dated March 6, 2023. The Supreme Court has jurisdiction over this appeal based on C.R.S. § 13-4-102(1)(d), which excludes from the court of appeals’ jurisdiction appeals from final judgments of district courts in “water cases involving priorities or adjudications,” and also under C.A.R. 1(a)(2), which allows appeals of “a judgment and decree, or any portion thereof, in a proceeding concerning water rights.”

C. Whether the judgment or order resolved all issues pending before the trial court including attorneys’ fees and costs.

The Final Decree fully resolved all issues pending before the District Court.

D. Whether the judgment was made final for purposes of appeal pursuant to C.R.C.P. 54(b).

The Final Decree was not made final for purposes of appeal pursuant to C.R.C.P. 54(b).

- E. The date judgment or order was entered and the date of mailing to counsel.

The Final Decree was entered by the District Court and was also served on all parties on May 2, 2023.

- F. Extensions to file motions for post-trial relief.

No extensions to file motions for post-trial relief were sought or granted.

- G. Date any motion for post-trial relief was filed.

No motion for post-trial relief was filed.

- H. Date any motion for post-trial relief was denied or deemed denied under C.R.C.P. 59(j).

No motion for post-trial relief was filed.

- I. Whether an appellate court granted an extension to file any notice(s) of appeal, and, if so, the date of the request, and the date to which filing was extended.

No extension to file notices of appeal was sought or granted.

2. Advisory Listing of Issues to be Raised on Appeal

- A. Whether the District Court erred as a matter of law by finding that the Court cannot apply the anti-speculation doctrine in a proceeding to amend a plan for augmentation that would augment depletions caused by the withdrawal of not nontributary groundwater rights.

B. Whether the District Court should have dismissed the District's claim to amend its plan for augmentation to allow new places and types of use of the not nontributary groundwater, except for the claimed fire protection use and the use of 0.84 acre-feet per year for commercial and municipal use at the homestead site located on the overlying property.

3. Whether the Transcript of any Evidence Taken Before the Trial Court or any Administrative Agency is Necessary to Resolve the Issues Raised on Appeal

There was no transcript of evidence taken before the District Court and therefore such transcript is not necessary to resolve the issues raised on appeal.

4. Whether the Order on Review was Issued by a Magistrate where Consent was Necessary

The Order on review was not issued by a magistrate where consent was necessary.

5. Names of Counsel for the Parties

Attorney for Franktown Citizens Coalition II, Inc., and West Elbert County Well Users Association

John D. Buchanan #45191
The Law Office of John D. Buchanan
2806 N Speer Blvd
Denver, Colorado 80211
john@jdbuchananlaw.com
(720) 413-2773

Attorneys for Independence Water and Sanitation District

Matthew S. Poznanovic, #29990
Eric K. Trout, #48640
Hayes Poznanovic Korver LLC
700 17th Street, Suite 1800
Denver, CO 80202
matt@hpkwaterlaw.com
eric@hpkwaterlaw.com
(303) 825-1980

Attorneys for Cordillera Corporation

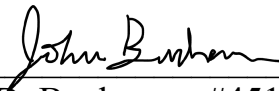
Chris D. Cummins, #35154
Emilie B. Polley, #51296
Monson, Cummins & Shohet, LLC
13511 Northgate Estates Dr., Ste. 250
Colorado Springs, CO 80921
(719) 471-1212
cdc@cowaterlaw.com
ebp@cowaterlaw.com

6. Appendix

A copy of the Final Decree and the District Court's order denying the Well Owners' motion for summary judgment are attached as Appendix A.

Respectfully submitted this 19th day of June, 2023.

The Law Firm of John D. Buchanan LLC

By: 
John D. Buchanan, #45191

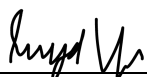
Attorney for Appellants Franktown Citizens
Coalition II, Inc., and West Elbert County
Well Users Association

E-FILED PURSUANT TO C.R.C.P. 121

*A printed or printable copy of this document with original, electronic, or scanned
signatures is on file at the Law Office of John D. Buchanan LLC*

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of June, 2023, a true and correct copy of the foregoing
JOINT NOTICE OF APPEAL with attachments was electronically served via CCE on the District
Court and on the attorneys for all parties currently admitted in the District Court proceeding.


Tuyet Vu