

DISTRICT COURT, WATER DIVISION 1  
WELD COUNTY, COLORADO

DATE FILED: March 4, 2016 12:28 PM

901 9th Avenue  
Greeley, Colorado 80632

**Plaintiff:** The Jim Hutton Educational Foundation, a  
Colorado non-profit corporation,

v.

**Defendants:** Dick Wolfe, in his capacity as the Colorado  
State Engineer; David Nettles, in his capacity as Division  
Engineer in and for Water Division No. 1, State of Colorado;  
the Colorado Department of Natural Resources; Colorado  
Division of Water Resources; and Colorado Parks and  
Wildlife,

**Defendant-Intervenors:** Yuma County Water Authority  
Public Improvement District; Colorado Ground Water  
Commission; and the Marks Butte, Frenchman, Sandhills,  
Central Yuma, Plains, WY, Arikaree, and East Cheyenne  
Ground Water Management Districts.

**Defendant -Well Owners:** Republican River Water  
Conservation District; City of Wray; City of Holyoke; Harvey  
Colglazier; Lazier, Inc.; Marjorie Colglazier Trust; Mariane  
U. Ortner; Timothy E. Ortner; Protect Our Local  
Community's Water, LLC; Saving Our Local Economy, LLC;  
the "North Well Owners"; Tri-State Generation and  
Transmission Association, Inc.; Dirks Farms Ltd; Julie Dirks;  
David L Dirks; Don Andrews, Myrna Andrews, and Nathan  
Andrews; Happy Creek, Inc.; J&D Cattle, LLC; 4M Feeders,  
Inc.; May Brothers, Inc.; May Family Farms; 4M Feeders,  
LLC; May Acres, Inc.; Thomas R. May; James J. May; Steven  
D. Kramer; Kent E. Ficken; Carlyle James as Trustee of the  
Chester James Trust; Colorado Agriculture Preservation  
Association; Colorado State Board of Land Commissioners;  
and the City of Burlington.

^ COURT USE ONLY ^

CYNTHIA H. COFFMAN, Attorney General  
VIRGINIA SCIABBARRASI, Assistant Attorney General\*  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 7thFloor  
Denver, CO 80203  
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Registration Number: 39753  
\*Counsel of Record

Case No. 15CW3018

Div.: 1

STATE BOARD OF LAND COMMISSIONERS' 26(a)(1) DISCLOSURES

The Colorado State Board of Land Commissioners (“Land Board”), by and through the Attorney General for the State of Colorado and the undersigned Assistant Attorney General, hereby submit its disclosures pursuant to C.R.C.P. 26(a)(1). The Land Board will supplement and amend these disclosures as necessary at any time prior to trial.

### **Preliminary Statement**

These initial disclosures are made to the best of the Land Board’s ability at this time. By disclosing the documents and witnesses herein, the Land Board does not waive any rights available to it under the Colorado Rules of Civil Procedure or any other law, including the Land Board’s right to object to the production of such documents, to redact such documents as necessary to protect privileged information, or to object to the testimony of such witnesses.

#### **I. Individuals Likely to Have Discoverable Information**

Pursuant to C.R.C.P. 26(a)(1)(A), the State Defendants provide the names, and, if known, addresses and telephone numbers, of each individual likely to have information related to Plaintiff’s claims and the Land Board’s defenses, below.

1. **Bill Ryan**, Director, State Board of Land Commissioners, 1127 Sherman Street, Suite 300, Denver, CO 80203. 303-866-3454. Mr. Ryan has knowledge of the trust lands and water rights owned by the Land Board that would be impacted by the outcome of the litigation.

2. **Greg Ochis**, Deputy Director, State Board of Land Commissioners, 1127 Sherman Street, Suite 300, Denver, CO 80203. 303-866-3454. Mr. Ochis has knowledge of the trust lands and water rights owned by the Land Board that would be impacted by the outcome of the litigation.

3. **Tobin Follenweider**, Deputy Director, State Board of Land Commissioners, 1127 Sherman Street, Suite 300, Denver, CO 80203. 303-866-3454. Mr. Follenweider has knowledge of the trust lands and water rights owned by the Land Board that would be impacted by the outcome of the litigation.

4. **Phil Courtney**, Solid Minerals Leasing Manager, State Board of Land Commissioners, 1127 Sherman Street, Suite 300, Denver, CO 80203. 303-866-3454. Mr. Courtney has knowledge of the trust lands and water rights owned by the Land Board that would be impacted by the outcome of the litigation.

5. **Wilbur Strickert**, District Manager, Northeast District, State Board of Land Commissioners, 301 Poplar Street, Ste. 3, Sterling, CO 80751. 970-522-0975. Mr. Strickert has knowledge of the trust lands and water rights owned by the Land Board that would be impacted by the outcome of the litigation. Mr. Strickert manages many of the leases on the trust property that would be impacted by the Court's ruling in this matter.

6. **Mike Pollart**, District Manager, Southeast District, State Board of Land Commissioners, 700 S. Main Street, Lamar, CO 81052. 719-336-3031. Mr. Pollart has knowledge of the trust lands and water rights owned by the Land Board that would be impacted by the outcome of the litigation. Mr. Pollart manages some of the leases on the trust property that would be impacted by the Court's ruling in this matter.

The following are not employed by the Land Board, but hold a lease with the State Land Board on trust property irrigated through the Land Board's water rights at issue in this litigation, and thus manage the Land Board's well interests, and therefore may have discoverable information:

7. Cure Brothers  
36977 CR CC  
Bethune, CO 80805
8. Rusty Wire Ranch  
7551 CR CC  
Idalia, CO 80735
9. Rick Haynes  
14473 CR 2  
Ovid, CO 80744
10. Kleve Farm & Ranch  
59076 HWY 6  
Holyoke, CO 80734
11. Selmer Prescott  
31998 CR R  
Eckley, CO 80727
12. Karen Seward-Furrow  
39101 CR E  
Yuma, CO 80759

13. Sprague Farms  
49488 US Hwy 385  
Wray, CO 80758
14. Bradley Young  
45071 Hwy 6  
Holyoke, CO 80734
15. Timothy Ortner  
47565 Hwy 6  
Holyoke, CO 80734
16. Allen Einspahr  
41886 Hwy 6  
Holyoke, CO 80734
17. John Hickert Jr.  
2016 Highland Dr.  
Sterling, CO 80751
18. Bradley J Michael  
36768 CR 15  
Haxtun, CO 80731
19. Brett B Rutledge  
B-D Farms  
10639 CR 30  
Yuma, CO 80759
20. Krueger Enterprises  
59095 CR 32  
Amherst, CO 80721
21. Tyson J King  
PO Box 68  
Cope, CO 80812
22. Danny Koberstein  
32474 CR 31  
Holyoke, CO 80734

23. Bradley Taylor  
3424 CR 38  
Yuma, CO 80759
24. Ortner Family Farms LP  
610 East Johnson  
Holyoke, CO 80734
25. Grasslyn INC  
641 Pine Grove RD  
State College, PA 16801
26. Colglazier Farms INC  
41427 CR 12  
Holyoke, CO 80734
27. Eldon L Heermann  
43501 CR 24  
Holyoke, CO 80734
28. H and H Cattle CO  
47318 CR 30  
Yuma, CO 80759
29. Ruben Richardson  
41564 CR J  
Yuma, CO 80759
30. Christopher W Fuesz  
16719 CR 21  
Haxtun, CO 80731
31. Michael Rother  
14621 County Road 60  
Arapahoe, CO 80802  
719-342-5422
32. Robert Kechter  
28374 CR MM  
Vona, CO 80861  
970-358-4541

33. Allen H. Schutte  
P.O. Box 130  
Burlington, CO 80807  
785-399-8038

34. Richard Trahern  
20531 CR 54  
Burlington, CO 80807  
719-346-5666

35. Each individual identified in the Rule 26(a)(1) or Rule 26(a)(2) disclosures of other parties in this case.

36. Any persons needed for rebuttal purposes or authentication of documents.

37. The Land Board reserves the right to supplement this list of individuals as deemed necessary by the Land Board as additional information becomes available.

## **II. Documents, Data Compilations, and Tangible Things**

Pursuant to C.R.C.P. 26(a)(1)(B), a listing of documents, data compilations, and tangible things in the Land Board's possession, custody, or control are provided below. These materials may be relevant to disputed facts alleged with particularity in the pleadings, and, unless withheld under a claim of privilege or redacted due to sensitive information such as bank account numbers or privileged communications, will be available for inspection and copying upon request.

1. The Land Board's lease files for the impacted trust properties, which includes, but is not limited to:
  - i. Lease application and assignment information, if any;
  - ii. Lease;
  - iii. Inspection reports;
  - iv. Rental payments;
  - v. Well permit application;
  - vi. Correspondence to and from DWR regarding well permit;
  - vii. Other correspondence to and from lessee.
2. Correspondence between Land Board staff and the Attorney General's office;
3. Maps showing locations of trust lands, well locations and leases;
4. Plat Book descriptions;

5. Land Board water ownership information;
6. Land Board policies regarding leasing and asset management;
7. The Land Board's official file regarding Case No. 15CW3018, which typically includes, but is not necessarily limited to:
  - i. All pleadings, orders and other documents filed in connection with Case No. 15CW3018.
  - ii. Relevant statutes and case law.
  - iii. Correspondence to and from Land Board staff regarding this Complaint.

This information can be found at the State Board of Land Commissioners, 1127 Sherman Street, Suite 300, Denver, CO 80203 and will be made available for inspection or photocopying by prior arrangement with the undersigned counsel.

**III. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying pursuant to C.R.C.P. 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.**

Not applicable, as the Land Board is not seeking damages in this case. However, the Land Board does not waive any right available to it to seek attorneys' fees and costs incurred in this litigation.

**IV. Any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment, making such agreement available for inspection and copying pursuant to C.R.C.P. 34.**

Not applicable.

**V. Withheld Documents and Information**

Pursuant to C.R.C.P. 26(b)(5), the following categories of information and documents are not discoverable, and as such, have been or will be withheld by the Land Board on the basis of privilege or protected as trial preparation materials:

1. All documents or communications constituting attorney-client communications;

2. All documents or communications constituting attorney work product including, but not limited to, letters, notes, research, memoranda, statutes, or legal analysis, including drafts;
3. All documents or communications subject to confidential co-party joint defense or common interest agreements in this case or any other case, including, but not limited to, communications among the Land Board and its counsel.

## **VI. Rule 26 (e) Supplementation**

The disclosures made herein are based upon the Land Board's present understanding of the claims and defenses asserted and issues raised by the pleadings with particularity. As these claims, defenses and issues are more fully developed during the progress of this case, additional persons with knowledge or additional relevant documents may become known. The Land Board will supplement or revise the disclosures contained herein in accordance with Rule 26(e), C.R.C.P.

Dated this 4<sup>th</sup> day of March, 2016.

CYNTHIA H. COFFMAN  
Attorney General

*/s/ Virginia Sciabbarrasi*

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Virginia Sciabbarrasi, 39753\*  
Assistant Attorney General  
Natural Resources & Environment Section  
State Trust Land Unit  
Attorneys for Defendant  
State Board of Land Commissioners  
\*Counsel of Record



CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **STATE BOARD OF LAND COMMISSIONERS' 26(a)(1) DISCLOSURES** upon all parties herein by Integrated Colorado Courts E-filing System (ICCES) or by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 4th day of March, 2016 addressed as follows:

| <b>Party Name</b>                        | <b>Party Type</b> | <b>Party Status</b> | <b>Attorney Name</b>  |
|--|-------------------|---------------------|---|
| Yuma Cnty Water Authority Public Improv  | Defendant         | Active              | Dulcinea Zdunska Hanuschak (Brownstein Hyatt Farber Schreck LLP)<br>John A Helfrich (Brownstein Hyatt Farber Schreck LLP)<br>Steven Owen Sims (Brownstein Hyatt Farber Schreck LLP) |
| Wy Ground Water Mgmt Dist                | Defendant         | Active              | Eugene J Riordan (Vranesh and Raisch)<br>Leila Christine Behnampour (Vranesh and Raisch)  |
| Tri State Generation And Transmission As | Defendant         | Active              | Aaron S. Ladd (Vranesh and Raisch)<br>Justine Catherine Shepherd (Vranesh and Raisch)<br>Roger T Williams (TriState Generation and Transmission Assoc Inc)                          |
| Timothy E Ortner                         | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )  |
| Thomas R May                             | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.)   |
| The Jim Hutton Educational Foundation    | Plaintiff         | Active              | Karen Leigh Henderson (Porzak Browning & Bushong LLP)<br>Steven J Bushong (Porzak Browning & Bushong LLP)   |
| The Jim Hutton Educational Foundation    | Applicant         | Active              | Karen Leigh Henderson (Porzak Browning & Bushong LLP)<br>Steven J Bushong (Porzak   |

| <b>Party Name</b>                        | <b>Party Type</b> | <b>Party Status</b> | <b>Attorney Name</b>  |
|--|-------------------|---------------------|---|
|  |                   |                     | Browning & Bushong LLP  |
| Steven D Kramer                          | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.)   |
| State Engineer                           | State Engineer    | Active              | Colorado Division Of Water Resources (State of Colorado - Division of Water Resources)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General) |
| Saving Our Local Economy Llc             | Defendant         | Active              | John David Buchanan (Buchanan Sperling and Holleman PC)<br>Timothy Ray Buchanan (Buchanan Sperling and Holleman PC)   |
| Sandhills Ground Water Mgmt Dist         | Defendant         | Active              | Eugene J Riordan (Vranesh and Raisch)<br>Leila Christine Behnampour (Vranesh and Raisch)  |
| Republican River Water Conservation Dist | Defendant         | Active              | David W Robbins (Hill and Robbins PC)<br>Peter J Ampe (Hill and Robbins PC)   |
| Protect Our Local Communitys Water Llc   | Defendant         | Active              | John David Buchanan (Buchanan Sperling and Holleman PC)<br>Timothy Ray Buchanan (Buchanan Sperling and Holleman PC)   |
| Plains Ground Water Mgmt Dist            | Defendant         | Active              | Eugene J Riordan (Vranesh and Raisch)<br>Leila Christine Behnampour (Vranesh and Raisch)  |
| North Well Owners                        | Defendant         | Active              | Kimbra L. Killin (Colver Killin and Sprague LLP)<br>Russell Jennings Sprague (Colver Killin and Sprague LLP)  |

| <b>Party Name</b>                  | <b>Party Type</b> | <b>Party Status</b> | <b>Attorney Name</b>  |
|------------------------------------|-------------------|---------------------|---|
| May Family Farms                   | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.) |
| May Brothers Inc                   | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.) |
| May Acres Inc                      | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.) |
| Marks Butte Ground Water Mgmt Dist | Defendant         | Active              | Eugene J Riordan (Vranesh and Raisch)<br>Leila Christine Behnampour (Vranesh and Raisch)                              |
| Marjorie Colglazier Trust          | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )  |
| Mariane U Ortner                   | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )  |
| Lazier Inc                         | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )  |
| Kent E Ficken                      | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.) |
| Julie Dirks                        | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )  |
| James J May                        | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.) |
| J And D Cattle Llc                 | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.) |

| <b>Party Name</b>                     | <b>Party Type</b> | <b>Party Status</b> | <b>Attorney Name</b>   |
|---------------------------------------|-------------------|---------------------|--|
| Harvey Colglazier                     | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )   |
| Happy Creek Inc                       | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.)            |
| Frenchman Ground Water Mgmt Dist      | Defendant         | Active              | Eugene J Riordan (Vranesh and Raisch)<br>Leila Christine Behnampour (Vranesh and Raisch)   |
| East Cheyenne Ground Water Mgmnt Dist | Defendant         | Active              | John David Buchanan (Buchanan Sperling and Holleman PC)<br>Timothy Ray Buchanan (Buchanan Sperling and Holleman PC)              |
| Don Myrna And Nathan Andrews          | Defendant         | Active              | Geoffrey M Williamson (Vranesh and Raisch)<br>Stuart B Corbridge (Vranesh and Raisch)  |
| Division 1 Water Engineer             | Opposer           | Active              | Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General)  |
| Division 1 Engineer                   | Division Engineer | Active              | Division 1 Water Engineer (State of Colorado DWR Division 1)   |
| Dirks Farms Ltd                       | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )   |
| Dick Wolfe                            | Defendant         | Active              | Daniel E Steuer (CO Attorney General)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General) |
| Dick Wolfe                            | Opposer           | Active              | Daniel E Steuer (CO Attorney General)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO                   |

| <b>Party Name</b>                    | <b>Party Type</b> | <b>Party Status</b> | <b>Attorney Name</b>   |
|--------------------------------------|-------------------|---------------------|--|
|                                      |                   |                     | Attorney General)  |
| David Nettles                        | Defendant         | Active              | Daniel E Steuer (CO Attorney General)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General) |
| David Nettles                        | Opposer           | Active              | Daniel E Steuer (CO Attorney General)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General) |
| David L Dirks                        | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )   |
| 4m Feeders Inc                       | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.)            |
| Colorado Parks And Wildlife          | Defendant         | Active              | Katie Laurette Wiktor (CO Attorney General)<br>Timothy John Monahan (CO Attorney General)  |
| Colorado Parks And Wildlife          | Opposer           | Active              | Katie Laurette Wiktor (CO Attorney General)<br>Timothy John Monahan (CO Attorney General)  |
| Colorado Ground Water Commission     | Defendant         | Active              | Chad Matthew Wallace (CO Attorney General)<br>Patrick E Kowaleski (CO Attorney General)  |
| Colorado Division of Water Resources | Defendant         | Active              | Daniel E Steuer (CO Attorney General)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General) |
| Colorado Division of                 | Opposer           | Active              | Daniel E Steuer (CO Attorney   |

| <b>Party Name</b>                                   | <b>Party Type</b> | <b>Party Status</b> | <b>Attorney Name</b>   |
|---|-------------------|---------------------|--|
| Water Resources                                     |                   |                     | General)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General)                              |
| Colorado Department of Natural Resources            | Defendant         | Active              | Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General)  |
| Colorado Department of Natural Resourc              | Opposer           | Active              | Daniel E Steuer (CO Attorney General)<br>Ema I.g. Schultz (CO Attorney General)<br>Preston Vincent Hartman (CO Attorney General) |
| Colorado Agriculture Preservation Assoc             | Defendant         | Active              | Bradley Charles Grasmick (Lawrence Jones Custer Grasmick LLP)  |
| City of Wray Colorado                               | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )   |
| City of Holyoke                                     | Defendant         | Active              | Alvin Raymond Wall (Alvin R Wall Attorney at Law )   |
| City of Burlington Colorado                         | Defendant         | Active              | Alix L Joseph (Burns Figa and Will P C)<br>Steven M. Nagy (Burns Figa and Will P C)  |
| Central Yuma Ground Water Mgmt Dist                 | Defendant         | Active              | Eugene J Riordan (Vranesh and Raisch)<br>Leila Christine Behnampour (Vranesh and Raisch)   |
| Carlyle James As Trustee of the Chester James Trust | Defendant         | Active              | Johanna Hamburger (Carlson, Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.)            |
| Arikaree Ground Water Mgmt Dist                     | Defendant         | Active              | David C Taussig (White & Jankowski, LLP)<br>Eugene J Riordan (Vranesh and Raisch)  |

| Party Name     | Party Type | Party Status | Attorney Name   |
|----------------|------------|--------------|---|
|                |            |              | Leila Christine Behnampour<br>(Vranesh and Raisch)  |
| 4m Feeders Llc | Defendant  | Active       | Johanna Hamburger (Carlson,<br>Hammond & Paddock, L.L.C.)<br>William Arthur Paddock (Carlson,<br>Hammond & Paddock, L.L.C.) |

/s/ Linda Miller .