

<p>DISTRICT COURT, WATER DIVISION NO.1  WELD COUNTY, COLORADO  901 9<sup>th</sup> Avenue / P.O. Box 2038  Greeley, Colorado 80631  (970) 351-7300</p>	<p style="text-align: right;">DATE FILED: March 4, 2016 3:39 PM</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>PLAINTIFF, The Jim Hutton Educational  Foundation,  v.  DEFENDANTS, Dick Wolfe, in his capacity as the  Colorado State Engineer, et al.</p>	
<p><b>For Defendants Dick Wolfe, State Engineer;  David Nettles, Division Engineer for Water  Division No. 1; Colorado Department of  Natural Resources; and Colorado Division of  Water Resources</b>  CYNTHIA H. COFFMAN, Attorney General  EMA I. G. SCHULTZ, Atty. Reg. No. 40117*  Assistant Attorney General  PRESTON V. HARTMAN, Atty. Reg. No. 41466*  Assistant Attorney General  DANIEL STEUER, Atty. Reg. No. #35086*  Assistant Attorney General  Ralph L. Carr Colorado Judicial Center  1300 Broadway, 7<sup>th</sup> Floor  Denver, CO 80203  Telephone: (720) 508-6307 (Ms. Schultz)  (720) 508-6260 (Mr. Hartman)  (720) 508-6262 (Mr. Steuer)  <a href="mailto:ema.schultz@state.co.us">ema.schultz@state.co.us</a>;  <a href="mailto:preston.hartman@state.co.us">preston.hartman@state.co.us</a>  <a href="mailto:daniel.steuer@state.co.us">daniel.steuer@state.co.us</a>  *Counsel of Record</p>	<p>Case No. 2015CW3018  Div.: 1</p>
<p style="text-align: center;">THE STATE AND DIVISION 1 ENGINEERS' C.R.C.P. 26(a)(1) DISCLOSURES</p>	

The State Engineer and Division Engineer for Water Division 1 (“Engineers”) submit the following disclosures pursuant to Rule 26(a)(1) of the Colorado Rules of Civil Procedure:

**A. The name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings:**

1. GORDON AYCOCK, Bureau of Reclamation, P.O. Box 1607, Grand Island, NE 68802. Mr. Aycock may have knowledge and information as to water deliveries to the Hale Ditch and may have knowledge and information concerning Bonny Dam and Reservoir.
2. DAVID BARFIELD, P.E, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS, 66502, (785) 564-6670. Mr. Barfield may have knowledge and information regarding the Republican River Compact, its administration, and the model.
3. CHRIS BEIGHTEL, Water Management Services Program Manager, Division of Water Resources, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS, 66502, (785) 564-6670. Mr. Beightel may have knowledge and information regarding the Republican River Compact, its administration, and the model.
4. DENNIS CORYELL, Board Member and Past President, Republican River Water Conservation District, 410 Main St., Suite 8, Wray, Colorado 80758, (970) 332-3552. As a Board Member of the Republican River Water Conservation District (“RRWCD”), Mr. Coryell may have knowledge and information concerning Republican River Compact, the Compact Compliance Pipeline, and general knowledge regarding the Republican River Basin.
5. DEB DANIEL, General Manager, Republican River Water Conservation District, 410 Main St., Suite 8, Wray, CO 80758, (970) 332-3552. Ms. Daniel may have knowledge and information regarding the Republican River Compact, the Compact Compliance Pipeline, and general knowledge regarding the Republican River Basin.
6. COREY DEANGELIS, P.E, Assistant Division Engineer, Water Division 1. 810 9th Street, Suite 200, Greeley, CO 80631, (970) 352-8712. Mr. DeAngelis has knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1.

7. BRIAN DUNNIGAN, Olsson Associates, 601 P Street, Suite 200, Lincoln, NE 68508, (402) 474-6311. As the former Director of the Nebraska Department of Natural Resources, Mr. Dunnigan may have knowledge and information regarding the interstate administration of the Republican River Compact and the model.
8. GORDON W. "JEFF" FASSETT, Director, Nebraska Department of Natural Resources, 301 Centennial Mall South, Lincoln, Nebraska 68509 (402) 471-2366. Mr. Fassett may have knowledge and information regarding the Republican River Compact, its administration, and the model.
9. BREANN FERGUSON, Well Technician, Water Division 1. 810 9th Street, Suite 200, Greeley, CO 80631, (970) 352-8712. Ms. Ferguson has knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1.
10. IVAN FRANCO, P.E., Engineer Adviser for Colorado, Division of Water Resources, 1313 Sherman Street, Room 818, Denver, CO 80203, (303) 866-3581. Mr. Franco may have knowledge or information concerning Compact administration, engineering, and accounting.
11. CHRIS GRIMES, P.E., Designated Basins and Acting Team Leader, Republican River, Division of Water Resources, 1313 Sherman Street, Room 818, Denver, CO 80203, (303) 866-3581. Mr. Grimes may have knowledge and information as to the Northern High Plains Designated Groundwater Basin and well administration within the Basin.
12. JIM HALL, P.E., Project Manager-Senior Water Resources Engineer, Northern Colorado Water Conservancy District, 220 Water Ave., Berthoud, CO 80513, (970) 622-2208. As a former Division Engineer, Water Division No. 1, Mr. Hall has knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1.
13. RANDY HENDRIX, P.E., Slattery and Hendrix Engineering, LLC, 8357 Windhaven Drive, Parker, CO 80134, (303) 309-0061. Mr. Hendrix is a water resources engineer who has worked on projects within the Republican River Basin and may have knowledge and information concerning the Republican River Compact Administration groundwater model.
14. DAVID KEELER, Water Commissioner, Republican River Basin, Division of Water Resources, Water Division No. 1, 810 9th Street, Suite 200, Greeley, CO

8063, (970) 352-8712. Mr. Keeler has knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1.

15. KEN KNOX, P.E., Owner, Knox Water Consultants, LLC, 3791 S. Peach Way, Denver, CO 80237, (303)263-4608. As former Acting State Engineer, Mr. Knox has knowledge and information as to the administration of water rights in the Republican River Basin, Water Division No. 1, and the Republican River Compact.

16. CHRIS KUCERA, Well Technician, Water Division 1. 810 9th Street, Suite 200, Greeley, CO 80631, (970) 352-8712. Mr. Kucera has knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1.

17. JAMES MARTIN, Groundwater Data Technician, Division 1 Groundwater Team, Division of Water Resources, Water Division No. 1, 810 9th Street, Suite 200, Greeley, CO 8063, (970) 352-8712. Mr. Martin has knowledge and information as to well measurements and administration in the Republican River Basin and Water Division No. 1.

18. GRADY MCNEILL, current address and phone number unknown. Mr. McNeill is a former Resource Support Section Manager for the Colorado Division of Parks and Wildlife and may have knowledge and information concerning Bonny Reservoir.

19. DAVID NETTLES, P.E., Division Engineer, Water Division 1. 810 9th Street, Suite 200, Greeley, CO 80631, (970) 352-8712. Mr. Nettles has knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1.

20. WILLIAM PECK, Bureau of Reclamation, P.O. Box 1607, Grand Island, NE 68802. Mr. Peck may have knowledge and information concerning Bonny Dam and Reservoir.

21. KEVIN REIN, P.E., Deputy State Engineer, Colorado Division of Water Resources, 1313 Sherman Street, Rm. 818, Denver, CO 80203, (303) 866-3581. Mr. Rein has knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1.

22. REPUBLICAN RIVER COMPACT COMMISSION. The RRCC is comprised of one representative from the States of Colorado, Nebraska and Kansas and is

authorized by the Republican River Compact to administer the Compact. The RRCA may have relevant compact accounting records.

23. REPUBLICAN RIVER WATER CONSERVATION DISTRICT BOARD and employees, 410 Main St., Suite 8, Wray, Colorado 80758, (970) 332-3552, may have knowledge and information concerning Plaintiff's water rights.

24. DEVIN RIDNOUR, Deputy Water Commissioner/Hydrographer, 810 9th Street, Suite 200, Greeley, CO 80631, (970) 352-8712. Mr. Ridnour has knowledge and information as to the administration of water rights in the Republican River Basin, and Plaintiff's water rights.

25. JIM SCHNEIDER, Olsson Associates, 601 P Street, Suite 200, Lincoln, NE 68508, (402) 474-6311. As the former Interim Director of the Nebraska Department of Natural Resources, Mr. Schneider may have knowledge and information regarding the interstate administration of the Republican River Compact and the model.

26. DR. WILLEM A. SCHREÜDER, P.E., President, Principia Mathematica Inc., 445 Union Blvd., Suite 230, Lakewood, CO 80228, (303) 716-3575. Mr. Schreüder has knowledge and information regarding the Republican River Compact Administration Model and the State of Colorado's accounting for the Republican River Compact. Mr. Schreüder has knowledge regarding the Republican River Compact.

27. JIM SLATTERY, P.E., Slattery and Hendrix Engineering, LLC. 8357 Windhaven Drive, Parker, CO 80134. 303-309-0061. Mr. Slattery is a water resources engineer who has worked on projects within the Republican River Basin and may have knowledge and information concerning water rights in the Republican River Basin and Water Division No. 1.

28. RUSSEL STROUD, P.E., Lead Hydrographer, Water Division 1. 810 9th Street, Suite 200, Greeley, CO 80631, (970) 352-8712. Mr. Stroud has knowledge and information as to the administration of water rights in the Republican River Basin.

29. MEGAN SULLIVAN, P.E., Team Leader, Division of Water Resources, 1313 Sherman Street, Room 818, Denver, CO 80203, (303) 866-3581. Ms. Sullivan is a former engineer advisor to the RRCA and may have knowledge or information concerning Compact administration.

30. MIKE SULLIVAN, P.E., Deputy State Engineer, 1313 Sherman Street, Room 818, Denver, CO 80203, (303) 866-3581. Mr. Sullivan has knowledge of the

administration of water rights in the Republican River Basin and Water Division No. 1 and Compact administration.

31. MARVIN SWANDA, current address and phone unknown at this time. As former Office Manager, Bureau of Reclamation, McCook Field Office Mr. Swanda may have knowledge and information concerning the operation of Bonny Reservoir.

32. AARON THOMPSON, Area Manager, Bureau of Reclamation, P.O. Box 1607, Grand Island, NE 68802. Mr. Thompson may have knowledge and information as to the operation of Bonny Reservoir.

33. KEITH VANDER HORST, P.E., Team Leader, Designated Basins, Division of Water Resources, 1313 Sherman Street, Room 818, Denver, CO 80203, (303) 866-3581. Mr. Vander Horst may have knowledge and information as to the Northern High Plains Designated Groundwater Basin and well administration within the Basin.

34. DICK WOLFE, P.E., State Engineer, 1313 Sherman Street, Room 818, Denver, CO 80203, (303) 866-3581. Mr. Wolfe may have knowledge and information as to the administration of water rights in the Republican River Basin and Water Division No. 1 and Compact administration.

35. Plaintiff or its attorneys, employees and/or agents may also have discoverable information relevant to disputed facts alleged with particularity in the Complaint.

36. Each individual identified in the Rule 26(a)(1) disclosures of any other party in this case.

37. Any individual necessary for rebuttal or impeachment purposes.

**B. A listing, together with a copy of, or a description by category and location of, all documents, data compilations and tangible things in the possession, custody or control of Defendants that are relevant to disputed facts alleged with particularity in the pleadings:**

1. Documents relating to stream flows, ground water levels, aquifer characteristics, land ownership, historical use, and administration of water within Water Division 1, the Republican River Basin, or the Northern High Plains Designated Groundwater Basin, including:

- a. Diversion and storage records and summaries thereof.
- b. Stream flow data from streams within Water Division 1 and/or the Republican River Basin.
- c. Decrees for water rights and/or copies of court filings in cases within or affecting Water Division No. 1, the Republican River Basin, or the Northern High Plains Designated Groundwater Basin.
- d. Diagrams and maps of water rights of Water Division No. 1, the Republican River Basin, or the Northern High Plains Designated Groundwater Basin.
- e. Aerial photographs of the Republican River Basin.
- f. Records of or concerning permits, applications, and decrees for Water Division No. 1, the Republican River Basin, or the Northern High Plains Designated Groundwater Basin.
- g. Call and curtailment records, including orders of the State Engineer and Division Engineer for Water Division No. 1.
- h. Records concerning diversion structures and water rights diverted thereby.
- i. Records concerning ground water diversions.
- j. Records concerning return flows.
- k. Records regarding the ground water measurement rules and administration thereof.
- l. Deeds, Maps, Statements, and other property records.
- m. The items identified in this category are located at the offices of the Division Engineer, Water Division 1, 810 9th Street, Suite 200, Greeley, CO 80631 and/or the Office of the Division of Water Resources, 1313 Sherman St., Room 818, Denver, CO 80203.

2. Documents relating to the Republican River Compact and its administration, including:

- a. Records concerning Republican River Compact Commission proceedings and actions.
- b. Records concerning Republican River Compact Commission Accounting.
- c. Records concerning groundwater modeling of waters in and near the Republican River Basin.
- d. Records concerning Colorado's compliance with the Republican River Compact.
- e. Records concerning litigation among Kansas, Nebraska, and Colorado regarding the Republican River Compact.
- f. Records concerning the State Engineer's administration of water in the Republican River Basin.
- g. Pleadings, Transcripts, Reports of Special Master, Final Settlement Stipulation, etc. in *Kansas v. Nebraska & Colorado*, No. 126, Orig.
- h. Pleadings, Transcripts, Findings of Arbitrator, etc. in 2010 Non-Binding Arbitration Pursuant to the Final Settlement Stipulation, *Kansas v. Nebraska & Colorado*, No. 126, Orig., before Martha O. Pagel, Arbitrator
- i. Pleadings, Transcripts, Findings of Arbitrator etc. in 2013 Non-Binding Arbitration Pursuant to the Final Settlement Stipulation, *Kansas v. Nebraska & Colorado*, No. 126, Orig., before Martha O. Pagel, Arbitrator
- j. The items identified in this category are publically available or located at the Office of the Division of Water Resources, 1313 Sherman St., Room 818, Denver, CO 80203.

3. Documents relating to Bonny Reservoir, including:

- a. Contracts and other documents related to the operation and maintenance of Bonny Reservoir.



- b. Records concerning the State Engineer's administration of water rights held by the United States.
  - c. The items identified in this category are located at the offices of the Division Engineer, Water Division 1, 810 9th Street, Suite 200, Greeley, CO 80631 and/or the Office of the Division of Water Resources, 1313 Sherman St., Room 818, Denver, CO 80203.
4. Documents relating to this case, including:
- a. All pleadings, orders and other documents filed in connection with or related to this case.
  - b. All documents or other records identified by any party in any document filed in this case.
  - c. Documents provided informally by Plaintiffs before or after the date of these disclosures.
  - d. Documents obtained in discovery conducted after the date of these disclosures.
  - e. Relevant statutes, legislative history and case law.
  - f. The items identified in this category are/will be located at the Office of the Attorney General, State of Colorado, 1300 Broadway, 7<sup>th</sup> Floor, Denver, CO 80203. Pleadings and other documents filed in the Division 1 Water Court in connection with Case No. 2015CW3018 may be obtained from the Water Clerk of Water Division 1 at the Weld County Courthouse in Greeley, Colorado.
5. Documents relating to Case No. 11CW186, *In the Interest of: The Jim Hutton Educational Foundation*.
- a. All pleadings, orders and other documents filed in connection with or related to Case No. 11CW186.
  - b. All documents or other records identified by any party in any document filed in Case No. 11CW186.
  - c. Documents provided informally by Plaintiffs in connection with Case No. 11CW186.

- d. Documents obtained in discovery conducted in Case No. 11CW186.
  - e. Relevant statutes, legislative history and case law.
  - f. The items identified in this category are/will be located at the Office of the Attorney General, State of Colorado, 1300 Broadway, 7<sup>th</sup> Floor, Denver, CO 80203. Pleadings and other documents filed in the Division 1 Water Court in connection with Case No. 11CW186 may be obtained from the Water Clerk of Water Division 1 at the Weld County Courthouse in Greeley, Colorado.
6. Documents relating to Case No. 12CW111, *In re Protest of The Jim Hutton Educational Foundation to the Revised Abandonment List of Water Rights in Water Division No. 1*.
- g. All pleadings, orders and other documents filed in connection with or related to Case No. 12CW111.
  - h. All documents or other records identified by any party in any document filed in Case No. 12CW111.
  - i. Documents provided informally by Plaintiffs in connection with Case No. 12CW111.
  - j. Documents obtained in discovery conducted in Case No. 12CW111.
  - k. Relevant statutes, legislative history and case law.
  - l. The items identified in this category are/will be located at the Office of the Attorney General, State of Colorado, 1300 Broadway, 7<sup>th</sup> Floor, Denver, CO 80203. Pleadings and other documents filed in the Division 1 Water Court in connection with Case No. 11CW186 may be obtained from the Water Clerk of Water Division 1 at the Weld County Courthouse in Greeley, Colorado.
7. Any document or exhibit endorsed or identified pursuant to C.R.C.P. 26(a)(1) or (a)(2) by any other party.
8. All documents necessary for rebuttal or impeachment purposes.

**C. Computation of damages.**

Not Applicable.

**D. Insurance agreements subject to C.R.C.P. 34.**

Not Applicable.

**E. Privileged Information.**

Pursuant to C.R.C.P. 26(a)(5), the Engineers assert that the following documents are privileged or subject to protection as trial preparation material:

1. Confidential letters, memoranda or other correspondence between the Engineers and their counsel concerning the litigation in this matter;
2. Letters, notes, research, memoranda, legal analysis and the like (including drafts thereof) prepared by counsel or the Engineers' staff in anticipation or furtherance of the Engineers' interests in this litigation; and
3. Copies of documents, otherwise made available through disclosure, which copies bear notes of counsel that were prepared in contemplation of litigation or that were intended to be used in furtherance of the Engineers' interest in this litigation.
4. Documents that are subject to confidentiality agreements with Nebraska and Kansas.

**F. C.R.C.P.26(e) Supplementation.**

The disclosures made herein are based upon the Engineers' 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 Engineers will supplement or revise the disclosures contained herein in accordance with C.R.C.P. 26(e).

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

CYNTHIA H. COFFMAN

Attorney General

*Filed pursuant to C.R.C.P. Rule 121 § 1-26.*

*A duly signed original is on file with the*

*Office of the Attorney General for the State of Colorado.*

*/s/Daniel Steuer*

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EMA I. G. SCHULTZ, #40117\*

PRESTON V. HARTMAN, #41466\*

DANIEL STEUER, #35086\*

Assistant Attorneys General

Natural Resources & Environment Section

Attorneys for Defendants Dick Wolfe, State

Engineer; David Nettles, Division Engineer for

Water Division No. 1; Colorado Department of

Natural Resources; and Colorado Division of Water

Resources

\*Counsel of Record

### **CERTIFICATE OF SERVICE**

This is to certify that on this 4<sup>th</sup> day of March, 2016, I caused a true and correct copy of the foregoing **THE STATE AND DIVISION 1 ENGINEERS' C.R.C.P. 26(a)(1) DISCLOSURES** to be served electronically via ICCES upon the following:

<b>Party Name</b>	<b>Party Type</b>	<b>Attorney Name</b>
Arikaree Ground Water Management District	Defendant	David C Taussig Eugene J Riordan Leila Christine Behnampour (Vranesh and Raisch)
City of Burlington, Colorado	Defendant	Alix L Joseph Steven M. Nagy (Burns Figa and Will P C)
City of Holyoke	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law )
City of Wray Colorado	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law )

<b>Party Name</b>	<b>Party Type</b>	<b>Attorney Name</b>
Colorado Agriculture Preservation Association	Defendant	Bradley Charles Grasmick (Lawrence Jones Custer Grasmick LLP)
Colorado Groundwater Commission	Defendant	Chad M. Wallace Patrick E. Kowaleski (CO Attorney General)
Colorado Parks And Wildlife	Defendant / Opposer	Katie Laurette Wiktor Timothy John Monahan (CO Attorney General)
Colorado State Board Land Commissioners	Defendant	Virginia Marie Sciabbarrasi (CO Attorney General)
David L. Dirks	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law )
Dirks Farms Ltd., Julie Dirks and David L. Dirks	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law )
Division 1 Engineer	Division Engineer	Division 1 Water Engineer (State of Colorado DWR Division 1)
Division 1 Water Engineer	Opposer	Ema I.G. Schultz Preston Vincent Hartman (CO Attorney General)
Don, Myrna and Nathan Andrews	Defendant	Geoffrey M. Williamson Stuart B. Corbridge (Vranesh and Raisch)
East Cheyenne Ground Water Management District	Defendant	John David Buchanan Timothy Ray Buchanan (Buchanan and Sperling, P.C.)
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, and Carlyle James as Trustee of the Chester James Trust	Defendant	Johanna Hamburger William Arthur Paddock (Carlson, Hammond & Paddock, L.L.C.)
Harvey Colglazier, Marjorie Colglazier Trust, and Lazier, Inc.	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law )
Mariane U. and Timothy E. Ortner	Defendant	Alvin Raymond Wall (Alvin R Wall Attorney at Law )
Marks Butte Ground Water Management District, Frenchman Ground Water Management District,	Defendant	David C. Taussig Eugene J Riordan Leila Christine Behnampour

<b>Party Name</b>	<b>Party Type</b>	<b>Attorney Name</b>
Central Yuma Ground Water Management District, WY Ground Water Management District, and Arikaree Ground Water Management District		(Vranesh and Raisch)
North Well Owners	Defendant	Kimbra L. Killin Russell Jennings Sprague (Colver Killin and Sprague LLP)
Protect Our Local Community's Water LLC	Defendant	John David Buchanan Timothy Ray Buchanan (Buchanan and Sperling, P.C.)
Republican River Water Conservation District	Defendant	David W Robbins Peter J Ampe (Hill and Robbins PC)
Saving Our Local Economy LLC	Defendant	John David Buchanan Timothy Ray Buchanan (Buchanan and Sperling, P.C.)
The Jim Hutton Educational Foundation	Plaintiff / Applicant	Karen Leigh Henderson Steven J Bushong (Porzak Browning & Bushong LLP)
Tri State Generation And Transmission As	Defendant	Aaron S. Ladd Justine Catherine Shepherd (Vranesh and Raisch)
Yuma County Water Authority Public Improvement District	Defendant	Dulcinea Zdunska Hanuschak John A Helfrich Steven Owen Sims (Brownstein Hyatt Farber Schreck LLP)

*Filed pursuant to C.R.C.P. Rule 121 § 1-26.  
A duly signed original is on file with the  
Office of the Attorney General for the State of Colorado.*

*/s/ Nan Edwards*

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Nan Edwards