



Water Resources and Water Quality Report

Forest Heights Estates

Project No. 61197

July 28, 2023

PCD File No. MS206

Prepared for
**Jon P. Didleaux and Phyllis J. Didleau Revocable
Trust**
7935 Forest Heights Circle
Colorado Springs, CO 80908
(719) 440-1949

Prepared by
M.V.E., Inc.
1903 Lelaray Street, Suite 200
Colorado Springs, CO 80909
(719) 635-5736

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For

High Forest Estates Subdivision Filing No. 1

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Introduction

The following report describes the water supply to serve the four (4) residential lots proposed in the Forest Heights Estates minor subdivision of 32.62 acres located within the southwest one-quarter of Section 9, Township 12 South, Range 65 west of the 6th principal meridian in El Paso County, Colorado (Subject Property). This report is intended to demonstrate the sufficiency in terms of quantity and dependability, of the water rights and resources to be utilized in the proposed subdivision. The proposed lots in the subdivision range in size from 5.000 to 12.108 acres each. Each of the four (4) lots in the subdivision is to be provided with water and sewer service through individual wells and individual On-site Wastewater Treatment Systems (OWTSs).

A water court decree facilitated by Monson, Cummins, Shohet & Farr, LLC, attorneys at law, is attached to this report showing the decreed amounts of the Dawson aquifer groundwater, along with the Denver, Arapahoe, and Laramie-Fox aquifers' groundwater, underlying the Subject Property. The document also approves a plan for augmentation for use of up to four (4) wells in the Dawson aquifer to serve each lot for a 300-year water supply period. Didleaux Wells Nos. 2 through 5 are proposed to be drilled following platting of the property into four lots.

Expected Water Demands

It is expected that the four residential lots in the subdivision will utilize four individual wells (one well per lot) drilled to the Dawson aquifer for domestic-type uses, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock, and fire protection. It is anticipated that the residences on the lots will each utilize a minimum of 0.20 acre-feet up to 0.26 acre-feet annually for in-house residential purposes. It is projected that each lot will also use 0.51 acre-feet per year for other uses including irrigation of lawn and garden and the watering of four horses or livestock and fire protection for a maximum total use of 0.77 acre-feet of water per lot as consistent with the decree in Case No. 22CW3060 and the El Paso County Land Development Code Section 8.4.7. The expected water uses and demands are presented in the table below.

Uses for the To Be Constructed Didleaux Wells Nos. 2 through 5	
In-house use	0.26 acre-feet per year per unit for total of 1.04 acre-feet per year
Irrigation use	0.27 acre-ft per year per unit for total of 1.08 acre-feet per year limited to irrigation of 2,175 square feet of lawn or garden per unit for total of 8700 square feet
Stock-watering use	0.24 acre-feet per year per unit limited to watering of 4 head per unit for total of 0.96 acre-feet per year for total of 16 horses or equivalent livestock

Total annual Use per lot	0.77 acre-feet per year
Total annual Use in subdivision = 4 x 0.77	3.08 acre-feet per year
Total amount over 300 years = 300 x 3.08 =	924 acre-feet
Total decreed Dawson aquifer water (22CW3060) = 2,270 acre-feet (See Decreed Amounts Below)	

The proposed wells are expected to produce from the not-nontributary Dawson aquifer at a flow rate of 10 to 15 gallons per minute, based upon past production in the immediate area. There are no other wells currently constructed on the subject property. Based on past experience with the numerous Dawson aquifer wells serving rural residential properties throughout El Paso County, this rate of production should be more than sufficient to meet demand for in-house use.

Amounts Decreed and Available

The decreed amount of Dawson aquifer groundwater is not-nontributary. The decreed amount from the Denver aquifer is also not-nontributary. The decreed amount of Arapahoe aquifer groundwater and Laramie-Fox Hills aquifer groundwater are nontributary. The referenced decree sets forth withdrawal amounts based on 100-year aquifer life required by the State of Colorado as well as the El Paso County required 300-year aquifer life. The following annual amounts are decreed and are based on annual withdrawals over a 300-year period (one acre-foot is 325,851 gallons).

Annual withdrawals of to-be-constructed Didleaux Wells Nos. 2, 3, 4 and 5 from the Dawson aquifer (not-nontributary) shall not exceed 0.77 acre-feet each, nor more than 3.08 acre-feet total per year. Didleaux Well No. 1 is an existing exempt well located on an adjacent property, not a part of the proposed subdivision, which is allowed to pump up to 1.0 acre-feet per year and is not included in the decreed Augmentation Plan.

A copy of the Decree entered in Case No. 22CW3060 is attached in the appendix, including the following specific quantities of water anticipated to be available for and utilized in the High Forest Estates subdivision:

AQUIFER	Annual Average Withdrawal – 100 Years (Acre Feet)	Annual Average Withdrawal – 300 Years (Acre Feet)	Total Withdrawal (Acre Feet)
Dawson (NNT)	2,270	25.7	7.56
Denver (NT)	2,130	21.3	7.1
Arapahoe (NT)	1,450	14.5	4.83
Laramie-Fox Hills (NT)	951	9.51	3.17

Based on the anticipated water demands, the water supply for the residential lots using four (4) Dawson aquifer wells pursuant to the augmentation plan approved in the referenced Decree is sufficient and satisfies the 300-year supply requirement of El Paso County.

Wastewater and Wastewater Treatment

A Soils and Geology Study and a Wastewater Study was prepared for this subdivision by Entech Engineering, Inc., both dated and revised March 17, 2022. The reports address the suitability of the site to support the use of individual On-site Wastewater Treatment Systems (OWTSs) which are to be utilized. The site has been evaluated for the use of on-site wastewater treatment systems to be located on each of the new lots. Based on such evaluation, the site is suitable for on-site wastewater treatment systems.

Septic projections are based on similar Denver Basin residential uses on rural residential lots. Average daily wastewater loads are expected to be approximately 160 gallons per day per single-family residence assuming residential in-house use at the 0.20 acre-feet per year rate described in the approved Augmentation Plan. Maximum daily wastewater loads are expected to be approximately 210 gallons per day per single-family residence based on the El Paso County Land Development Code residential demand standard of 0.26 acre-feet per year.

All single-family homes within the High Forest Estates subdivision shall be served by individual on-site wastewater treatment systems which will be installed according to El Paso County and State Guidelines and properly maintained to prevent contamination of surface and subsurface water resources.

Augmentation

Consistent with the Plan for Augmentation decreed in Water Division 2 Case No. 22CW3060, it is anticipated that each single-family residence will utilize a maximum of 0.77 annual acre feet of water through individual wells, with total demand for all four lots estimated at a maximum of 3.08 annual acre feet. Of this pumping, it is anticipated that 0.26 annual acre feet will be utilized for in-house residential purposes, with the remainder of pumping available for other uses authorized under the augmentation plan.

A plan for augmentation utilizing the underlying Denver Basin aquifers has been decreed by the District Court, Water Division 2, in Case No. 22CW3060. As particularly described in the attached Decree, a 300-year water supply is demonstrated in the Dawson aquifer, with all depletions augmented in time, place and amount through septic return flows during pumping, and through dedication of nontributary groundwater in the Arapahoe and Laramie-Fox Hills aquifers for replacement of injurious post-pumping depletions. Applicants shall reserve 943 acre-feet of the total 951 acre-feet of their decreed nontributary Laramie-Fox Hills aquifer water for the replacement of post-pumping depletion.

Rural residential water supply demand will be met using not-nontributary Dawson formation wells, consistent with the plan for augmentation decreed in Case No. 20CW3077. Only one of the proposed two wells which will ultimately provide water supply to the lots at the High Forest Estates subdivision has been drilled, to date.

The augmentation plan decreed in Case No. 22CW3060 will provide for a 300-year water supply for each of the anticipated lots within the High Forest Estates subdivision, with each lot utilizing an OWTS of a non-evaporative nature. The water resources to be utilized in the subdivision are typical to 5-acre rural residential development near the Black Forest and other parts of rural northeastern El Paso County, Colorado. The plan for augmentation decreed in Case No. 22CW3060 demonstrates a sufficient quantity and reliability of water to support compliance with El Paso County's 300-year water supply rules for subdivisions of this nature.

Water Quality

M.V.E., Inc. has examined water quality testing results for the existing Ditleaux Well No. 1 (permit No. 293425-A) located adjacent to the subject property. Testing for the required contaminants was performed by the Colorado-certified testing laboratories, Colorado Analytical Laboratories, Inc. and Hazen Research, Inc. The examined reports contain tests for each of the required contaminants for a confined aquifer in accordance with the Land Development Code of El Paso County (LDC). M.V.E. Inc. compared the test results to the Maximum Contaminant Level (MCL) for each substance and found the results to be within acceptable levels in accordance with El Paso County standards contained in the LDC. Copies of those testing results are collectively attached hereto as Exhibit E.

So as to ensure compliance with LDC Section 8.4.7(B)(3)(d), and all provisions of the LDC Section 8.4.7(B)(10), a full spectrum water quality testing on said well was obtained, including chemical analysis (see LDC Section 8.4.7(B)(10)(a)), testing against all applicable MCL's established by the EPCPH (see LDC Section 8.4.7(B)(10)(b)), and analysis of all major ions (see LDC Section 8.4.7(B)(10)(c)). The water samples were drawn from the closest available outdoor spigot connected to the State of Colorado permitted well of the Dawson Aquifer at 7935 Forest Heights Circle, Colorado Springs, CO 80908 on 10/19/2020. Said samples were collected by the applicant pursuant to instructions provided by Colorado Analytical Laboratories, Inc., who likewise assisted in maintaining a proper chain of custody on all such samples (see LDC Section 8.4.7(B)(10)(d)). All samples tested by Colorado Analytical Laboratories were obtained from the Dawson aquifer at an existing well on the project site and within ½ mile (see LDC Section 8.4.7(B)(10)(e)).

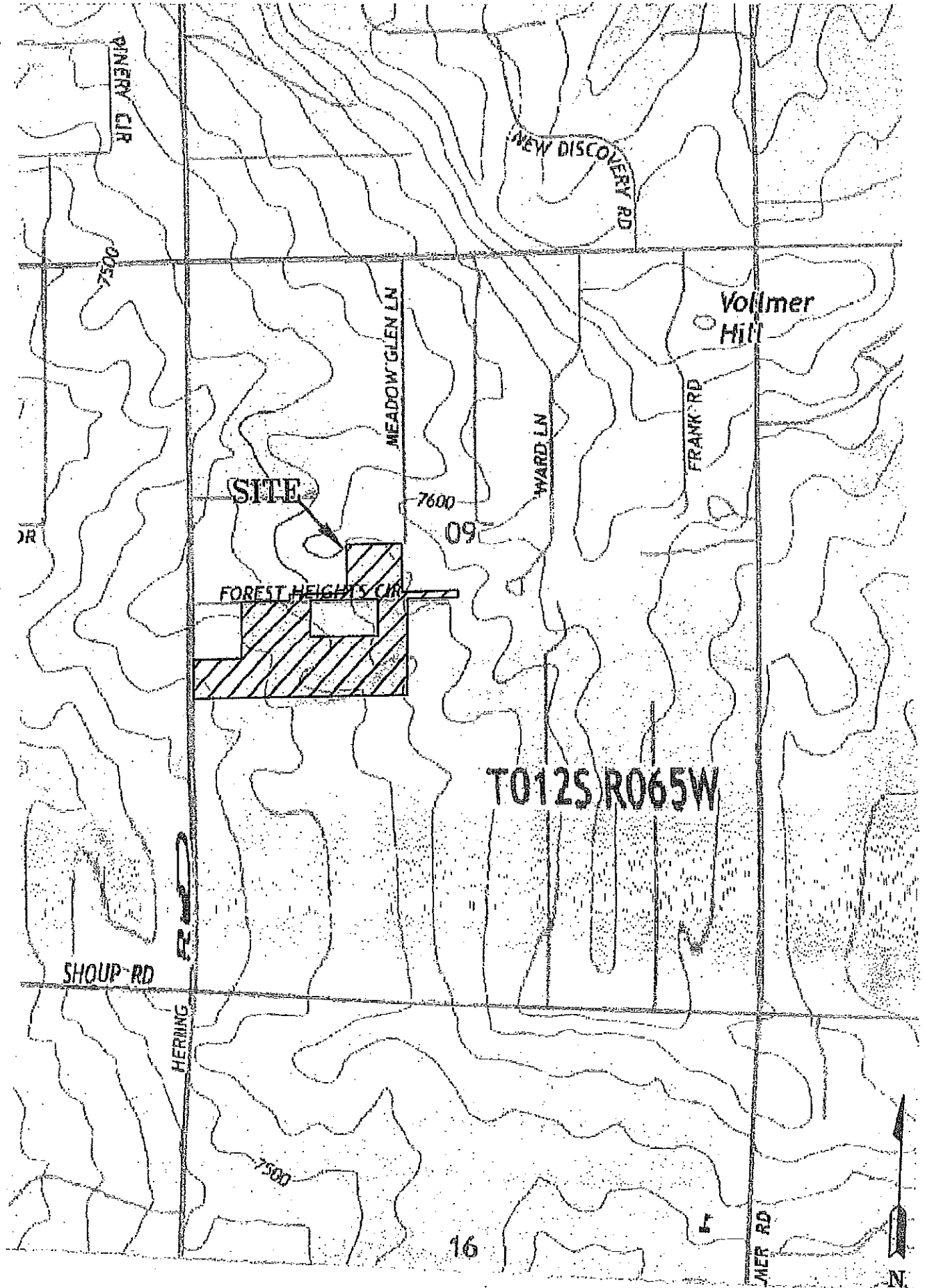
In accordance with LDC Section 8.4.7(B)(3)(d)(3), the owner has identified no unusual or atypical on-site or off-site sources of potential contamination, which is likely to, or has the real potential to, contaminate the confined Dawson aquifer from which the owner's source water is to be obtained. The requested subdivision of the subject property into approximately 5-acre to 12-acre parcels is typical of the region, as is the proposed water source. Potential contaminants would be non-compliant or poorly located septic systems (which will not be permitted within the subdivision), hazardous material spills, and sources of contamination contrary to existing law and regulation,

and beyond the owner's control. Barring such misfeasance or malfeasance, the owner does not believe any on or off-site hazards of note exist.

Based on these findings we recommend that the El Paso County Public Health and El Paso County Attorney's office make a finding of sufficiency for water quality for the Forest Heights Estates Subdivision final plat. The to be constructed wells (Didleaux Wells Nos. 2-5) will meet all such regulatory requirements regarding quality testing before being utilized as a residential water source.

Appendix

Exhibit A	Vicinity Map
Exhibit B	Water Decree (Water Division 2 Case No. 22CW3060)
Exhibit C	Well Permit (Permit No. 79072-F)
Exhibit D	Water Supply Information Summary (Form No. GWS-76)
Exhibit E	Water Quality Testing Results



PINERY CIR

NEW DISCOVERY RD

Vollmer Hill

0052

MEADOW GLEN LN

WARD LN

FRANK RD

SITE

7600

09

FOREST HEIGHTS CIR

T012S R065W

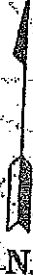
SHOUP RD

HERRING RD

7500

16

MER RD



DISTRICT COURT, WATER DIVISION 2, COLORADO Court Address: 501 North Elizabeth Street, Suite 116 Pueblo, CO 81003 Phone Number: (719) 404-8832	DATE FILED: March 17, 2023 3:44 PM CASE NUMBER: 2022CW3060 <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
CONCERNING THE APPLICATION FOR WATER RIGHTS OF: JON P. DIDLEAUX and PHYLLIS J. DIDLEAU REVOCABLE TRUST IN EL PASO COUNTY, COLORADO	Case No.: 22CW3060 (Ref.18CW3026)
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND DECREE: APPROVING AUGMENTATION PLAN	

THIS MATTER comes before the Water Referee on the Application filed by Jon P. Didleaux and Phyllis J. Didleau Revocable Trust for revision to an existing plan for augmentation. Having reviewed said application and other pleadings on file, and being fully advised on this matter, the Water Referee makes the following findings and orders:

FINDINGS OF FACT

1. The Applicants in this case are Jon P. Didleaux and Phyllis J. Didleau Revocable Trust c/o Jon P. Didleaux, whose address is 7935 Forest Heights Circle, Colorado Springs, CO 80908 ("Applicants"). Applicants are the owners of the land totaling approximately 32.5 acres located in Section 9, Township 12 South, Range 65 West of the 6th P.M., in El Paso County, Colorado, more specifically described as 12725 Herring Road, Colorado Springs, CO 80908, ("Applicants' Property").

2. The Applicants filed this Application with the Water Court for Water Division 2 on September 14, 2022. The Application was referred to the Water Referee in Division 2 on September 15, 2022.

3. The time for filing statements of opposition to the Application expired on the last day of November 2022. No Statements of Opposition were filed.

4. There are no lienholders on the Applicants' Property, and therefore notice requirements of C.R.S. § 37-92-302 are inapplicable. A Notice of No Lienholder was filed with the Court on September 21, 2022.

5. The Clerk of this Court has caused publication of the Application as provided by statute, and the publication costs have been paid. On November 3, 2022,

proof of publication in the *Colorado Springs Gazette* in El Paso County was filed with the Water Court Division 2. All notices of the Application have been given in the manner required by law.

6. Applicants seek to amend an existing plan for augmentation decreed on September 14, 2018 in Case No. 18CW3026, by District Court, Water Division 2 (“18CW3026 Decree”).

7. Pursuant to C.R.S. §37-92-302(4), the office of the Division Engineer for Water Division No. 2 filed its Consultation Report dated January 18, 2023 and no response from Applicants was required. The Consultation Report has been considered by the Water Referee in the entry of this Ruling.

8. The Water Court has jurisdiction over the subject matter of these proceedings and over all who have standing to appear as parties whether they have appeared or not. The land and water rights involved in this case are not within a designated groundwater basin.

AMENDMENT TO PLAN FOR AUGMENTATION

9. The original decree in Case No. 18CW3026 established an augmentation plan for three wells located on for Applicants’ Property to support its subdivision into three lots. The augmentation plan decreed that up to a combined 1.2 acre-feet of water may be withdrawn from the not-nontributary Dawson aquifer from the three individual wells on each of the lots, or 0.4 acre-fee per well, and set forth the water use as in house, irrigation of lawn and garden, stock water, and fire protection. The 18CW3026 Decree also reserved a total of 327 acre-feet for replacement of post-pumping depletion obligations (a 300-year aquifer life/plan for augmentation).

10. The Applicants are the owners of Applicants’ Property, including the following quantities of water in the Denver Basin aquifers underlying the Applicants’ Property, as quantified in the 18CW3026 Decree:

Aquifer	Total Acre-Feet	Annual Amount – 100 years (Acre-Feet)	Annual Amount – 300 years (Acre-Feet)
Dawson (NNT)	2,270 ¹	25.7	7.56 ²
Denver (NNT)	2,130	21.3	7.1
Arapahoe (NT)	1,450	14.5	4.83
Laramie-Fox Hills (NT)	951	9.51	3.17

¹ The total appropriable amount from the Dawson aquifer has been reduced by 300 acre-feet from the original decreed amount in Case No. 18CW3026 of 2,570 total acre-feet to 2,270 total acre-feet to account for pumping from the Didleaux Well No. 1 of an acre-foot annually for a period of 300 years.

² The originally decreed amount of 8.56 acre-feet has been reduced by an acre-foot to account for pumping from the Didleaux Well No. 1.

11. The Applicants requested to amend Case No. 18CW3026 to support the development and subdivision of Applicants' Property as follows:

A. Removal of 7935 Forest Heights Circle from Augmentation Plan and Maintaining Status of Existing Exempt Well: That portion of Applicants' Property located at 7935 Forest Heights Circle, Colorado Springs, CO 80908, containing 2.5 acres as identified on **Exhibit A**, is removed from the augmentation plan decreed in the 18CW3026 Decree, and is not a part of the revised augmentation plan decreed herein. The existing domestic well with Division of Water Resources Permit No. 293425-A ("Didleaux Well No. 1) will remain an exempt well permitted pursuant to C.R.S. §37-92-602(5) and is not subject to either the previous augmentation plan decreed in 18CW3026 or the augmentation plan decreed herein.

12. Revised Augmentation Plan:

A. Structures to be Augmented: The structures to be augmented are four wells (one well per lot) to be constructed to the not-nontributary Dawson aquifer ("Didleaux Wells Nos. 2 through 5), underlying the Applicants' Property, along with any additional or replacement wells associated therewith. The Didleaux Well No. 1 will remain an exempt well pursuant to C.R.S. §37-92-602(5) and is not subject to augmentation obligations decreed herein. The amendment decreed herein increases pumping from 1.2 acre-feet annually from three augmented wells to 3.08 acre-feet annually from four augmented wells, in addition to pumping an acre-foot per year from the existing exempt well.

B. Use. The Didleaux Wells Nos. 2 through 5 may each pump up to 0.77 acre-feet of water per year, for a maximum total of 3.08 acre-feet being withdrawn from the Dawson aquifer annually. Indoor use will utilize a minimum of 0.20 acre-feet of water per year, per residence, with the remaining 0.57 acre-feet per year pumping entitlements available for other uses on each of the lots including, irrigation of lawn and garden and the watering of four horses or equivalent livestock, and fire protection. The foregoing figures assume the use of an individual septic system on each lot (for a total of 4 individual septic systems), with resulting return flows for the replacement of actual stream depletions.

C. Depletions During Pumping. Maximum annual depletions for total residential pumping from the Didleaux Wells Nos. 2 through 5 on Applicants' Property over the 300-year pumping period amounts to approximately 22.09% of pumping, or 0.68 acre-feet in year 300. Depletions during pumping will be effectively replaced by residential return flows from non-evaporative septic systems. The annual consumptive use for non-evaporative septic systems is estimated at 10% per year per residence. At a minimum household indoor use rate of 0.20 acre-feet per year, per residence, 0.18 acre-feet is replaced to the stream system per year, per residence, for a total of 0.72 acre-feet being replaced to the stream annually utilizing non-evaporative septic systems.

D. Post-Pumping Depletions. The 18CW3026 Decree reserved 327 acre-feet of water in the nontributary Laramie-Fox Hills aquifer for the replacement of injurious post-pumping depletions. By the revised augmentation plan decreed herein, the Applicants reserve 943 acre-feet in the nontributary Laramie-Fox Hills aquifer, thereby adding 616 acre-feet to post-pumping augmentation supply, for the replacement of post-pumping depletions that may occur from pumping 3.08 annual acre-feet from the nontributary Dawson aquifer by the Didleaux Wells Nos. 2 through 5, and any additional or replacement wells associated therewith. The Applicants also reserve the right to substitute other legally available augmentation sources for such post pumping depletions upon further approval of the Court under its retained jurisdiction. Even though this reservation is made, under the Court's retained jurisdiction, Applicants reserve the right in the future to prove that post pumping depletions will be non-injurious. The reservation of a total of 943 acre-feet of the Laramie-Fox Hills aquifer groundwater will be sufficient to replace post-pumping depletions. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

E. Submittal by the Applicants of complete well permit applications and filing fees, the State Engineer shall issue permits for the Didleaux Wells Nos. 2 through 5 pursuant to C.R.S. §37-90-137(4), consistent with and referencing the revision to plan for augmentation decreed herein.

13. Applicants or their successors shall be required to initiate pumping from the Laramie-Fox Hills aquifer for the replacement of post-pumping depletions when either: (i) the Applicants or their successors in interest have acknowledged in writing that all withdrawals for beneficial use of the Dawson groundwater have permanently ceased, (ii) a period of 10 consecutive years where no withdrawals of Dawson groundwater has occurred, or (iii) accounting shows that return flows from the use of the water being withdrawn are insufficient to replace depletions caused by the withdrawals that already occurred.

14. This decree, upon recording, shall constitute a covenant running with Applicants' Property, benefitting and burdening said land, and requiring construction of well(s) to the nontributary Laramie-Fox Hills aquifer and pumping of water to replace post-pumping depletions under this decree. Subject to the requirements of this decree, in order to determine the amount and timing of post-pumping replacement obligations under this augmentation plan, Applicants or their successors shall use information commonly used by the Colorado Division of Water Resources for augmentation plans of this type at the time. Pursuant to this covenant, the water from the nontributary Laramie-Fox Hills aquifer reserved herein may not be severed in ownership from the Applicants' Property. This covenant shall be for the benefit of, and enforceable by, third parties owning vested water rights who would be injured by the failure to provide for the replacement of post-pumping depletions under the decree, and shall be specifically enforceable by such third parties against the owner of the Applicants' Property.

15. Unless modified by the Court under its retained jurisdiction, Applicants and their successors shall be responsible for accounting and replacement of post-pumping

depletions as set forth herein. Should Applicants' obligation hereunder to account for and replace such post-pumping stream depletions be reduced or abrogated for any reason, Applicants or their successors may petition the Court to also modify or terminate the reservation of the Laramie-Fox Hills aquifer groundwater.

16. Consideration has been given to the depletions from Applicants' use and proposed uses of water, in quantity, time and location, together with the amount and timing of augmentation water which will be provided by the Applicants, and the existence, if any, injury to any owner of or person entitled to use water under a vested water right.

CONCLUSIONS OF LAW

17. The application for amendment to plan for augmentation was filed with the Water Clerk for Water Division 2, pursuant to C.R.S. §§37-92-302(1)(a) and 37-90-137(9)(c.5).

18. The Applicants' request for adjudication of these water rights is contemplated and authorized by law, and this Court and the Water Referee have exclusive jurisdiction over these proceedings. C.R.S. §§37-92-302(1)(a), 37-92-203, and 37-92-305.

19. The Applicants' request for approval of revision to plan for augmentation is contemplated and authorized by law. If administered in accordance with this decree, this plan for augmentation will permit the uninterrupted diversions from the well without adversely affecting any other vested water rights in the Arkansas River or its tributaries and when curtailment would otherwise be required to meet a valid senior call for water. C.R.S. §§37-92-305(3),(5), and (8).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

20. All of the foregoing Findings of Fact and Conclusions of Law are incorporated herein by reference, and are considered to be a part of this decretal portion as though set forth in full.

21. The Application for Amendment to Plan for Augmentation proposed by the Applicants is approved, subject to the terms of this decree.

22. The Applicants have furnished acceptable proof as to all claims and, therefore, the Application for Revision to Plan for Augmentation, as requested by the Applicants, is granted and approved in accordance with the terms and conditions of this decree. Approval of this Application will not result in any material injury to senior vested water rights.

23. Pursuant to C.R.S. §37-92-304(6), the Court shall retain continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to

prevent injury to vested water rights of others, as pertains to the use of Denver Basin groundwater supplies adjudicated herein for augmentation purposes. The court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation plan.

24. Pursuant to C.R.S. §37-92-502(5)(a), the Applicants shall install and maintain such water measurement devices and recording devices as are deemed essential by the State Engineer or Division Engineers, and the same shall be installed and operated in accordance with instructions from said entities. Applicants are to install and maintain a totalizing flow meters on the well or any additional or replacement wells associated therewith.

25. The vested water rights, water right structures, and plan for augmentation decreed herein shall be subject to all applicable administrative rules and regulations, as currently in place or as may in the future be promulgated, of the offices of Colorado State and Division Engineers for administration of such water rights, to the extent such rules and regulations are uniformly applicable to other similarly situated water rights and water users. The State Engineer shall identify in any permits issued pursuant to this decree the specific uses which can be made of the groundwater to be withdrawn, and shall not issue a permit for any proposed use, which use the State Engineer determines to be speculative at the time of the well permit application or which would be inconsistent with the requirements of this decree, any separately decreed plan for augmentation, or any modified decree and augmentation plan.

26. The Didleaux Wells Nos. 2 through 5 and any replacement or additional wells, shall be operated such that combined pumping from all wells does not exceed the annual (3.08 acre-feet) and total (924 acre-feet) pumping limits for the Dawson aquifer as decreed herein, and is in accordance with the requirements of the plan for augmentation described herein. The State Engineer, the Division Engineer, and/or the Water Commissioner shall not curtail the diversion and use of water by the Didleaux Wells Nos. 2 through 5 or any additional and replacement wells so long as the return flows from the annual diversions associated with the Didleaux Wells Nos. 2 through 5 and such other wells accrue to the stream system pursuant to the conditions contained herein. To the extent that Applicants or one of their successors or assigns is ever unable to provide the replacement water required, then the Didleaux Wells Nos. 2 through 5, and any additional or replacement wells, shall not be entitled to operate under the protection of this plan, and shall be subject to administration and curtailment in accordance with the laws, rules, and regulations of the State of Colorado. Pursuant to C.R.S. §37-92-305(8), the State Engineer shall curtail all out-of-priority diversions which are not so replaced as to prevent injury to vested water rights. In order for this plan for augmentation to operate, return flows from the septic system discussed herein shall at all times during pumping be in an amount sufficient to replace the amount of stream depletions, and cannot be sold, leased, or otherwise used for any purpose inconsistent with the augmentation plan decreed herein. Applicants shall be required to have any wells pumping from the Dawson aquifer on the Applicants' Property provide water for in-house use and generating septic system returns prior to pumping the wells for any of the other uses identified herein.

27. The wells shall be installed and metered as reasonably required by the State Engineer. The wells will be equipped with a totalizing flow meter and Applicants shall submit diversion records to the Division Engineer by April 1st and November 1st annually, or as otherwise requested by the Division Engineer.

28. All other provisions of the 18CW3026 decree remain the same and in full force and effect.

29. This Ruling of Referee, when entered as a decree of the Water Court, shall be recorded in the real property records of El Paso County, Colorado. Copies of this ruling shall be mailed as provided by statute.

Dated: February 22, 2023.



Kate Brewer
Water Referee
Water Division Two

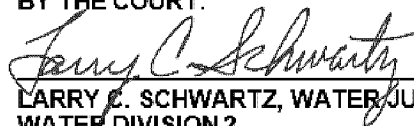
DECREE

The court finds that no protest was filed in this matter. The foregoing ruling is confirmed and approved and is made the judgment and decree of this Court.

Dated: March 17, 2023



BY THE COURT:



LARRY C. SCHWARTZ, WATER JUDGE
WATER DIVISION 2

FORM NO.
GWS-76
05/2011

WATER SUPPLY INFORMATION SUMMARY
STATE OF COLORADO, OFFICE OF THE STATE ENGINEER
1313 Sherman St., Room 821, Denver, CO 80203
Main (303) 866-3581 dwr.colorado.gov

Section 30-28-133,(d), C.R.S. requires that the applicant submit to the County, "Adequate evidence that a water supply that is sufficient in terms of quantity, quality, and dependability will be available to ensure an adequate supply of water."

1. NAME OF DEVELOPMENT AS PROPOSED: **Forest Heights Estates**

2. LAND USE ACTION: **Minor Subdivision**

3. NAME OF EXISTING PARCEL AS RECORDED:
SUBDIVISION: **N/A**, FILING (UNIT), BLOCK, LOT

4. TOTAL ACREAGE: **32.618** 5. NUMBER OF LOTS PROPOSED **4** PLAT MAP ENCLOSED? YES or NO

6. PARCEL HISTORY – Please attach copies of deeds, plats, or other evidence or documentation.

A. Was parcel recorded with county prior to June 1, 1972? YES or NO

B. Has the parcel ever been part of a division of land action since June 1, 1972? YES or NO

If yes, describe the previous action:

7. LOCATION OF PARCEL – Include a map delineating the project area and tie to a section corner.

 1/4 of the SW 1/4, Section 9, Township 12 N or S, Range 65 E or W

Principal Meridian (choose only one): Sixth New Mexico Ute Costilla

Optional GPS Location: GPS Unit must use the following settings: Format must be **UTM**, Units must be **meters**, Datum must be **NAD83**, Unit must be set to **true N**, Zone 12 or Zone 13 Easting: _____ Northing: _____

8. PLAT – Location of all wells on property must be plotted and permit numbers provided.

Surveyor's Plat: YES or NO If not, scaled hand drawn sketch: YES or NO

9. ESTIMATED WATER REQUIREMENTS

USE	WATER REQUIREMENTS	
	Gallons per Day	Acre-Feet per Year
(4 units at 0.26 ac-ft/yr each) HOUSEHOLD USE # <u>4</u> of units	_____	<u>1.04</u>
COMMERCIAL USE # _____ of S. F (4 units at 2,175 sf irrigation at 0.124 ac-ft/1000 sf/yr ea) IRRIGATION # <u>0.20</u> of acres	_____	<u>1.08</u>
(4 head per unit at 0.06 ac-ft/yr ea) STOCK WATERING # <u>16</u> of head	_____	<u>0.96</u>
OTHER: _____	_____	_____
TOTAL	_____	<u>3.08</u>

10. WATER SUPPLY SOURCE

NEW WELLS -

PROPOSED AQUIFERS – (CHECK ONE)

ALLUVIAL UPPER ARAPAHOE

UPPER DAWSON LOWER ARAPAHOE

LOWER DAWSON LARAMIE FOX HILLS

DENVER DAKOTA

OTHER: _____

MUNICIPAL

ASSOCIATION

COMPANY

DISTRICT

NAME _____

LETTER OF COMMITMENT FOR SERVICE YES or NO

WATER COURT DECREE CASE NUMBERS: 22CW3060

11. WAS AN ENGINEER'S WATER SUPPLY REPORT DEVELOPED? YES or NO IF YES, PLEASE FORWARD WITH THIS FORM. (This may be required before our review is completed.)

12. TYPE OF SEWAGE DISPOSAL SYSTEM

- SEPTIC TANK/LEACH FIELD CENTRAL SYSTEM
- LAGOON VAULT
- ENGINEERED SYSTEM (Attach a copy of engineering design.) OTHER: _____
- DISTRICT NAME: _____
- LOCATION SEWAGE HAULED TO: _____

Report To: Jon Didleaux
Company: Jon Didleaux
7935 Forest Heights Cir
Colorado Springs CO 80908

Bill To: Jon Didleaux
Company: Jon Didleaux
7935 Forest Heights Cir
Colorado Springs CO 80908

Task No.: 201019045
Client PO: PAID CHECK 1756
Client Project:

Date Received: 10/19/20
Date Reported: 10/28/20
Matrix: Water - Drinking

Customer Sample ID 7935 Forest Hts
Sample Date/Time: 10/19/20 5:30 AM
Lab Number: 201019045-01

Test	Result	Method	ML	Date Analyzed	Analyzed By	MCL
Nitrate/ Nitrite Nitrogen	0.41 mg/L	Calculation	0.05 mg/L	10/21/20	MAT	
Chloride	2.3 mg/L	EPA 300.0	0.1 mg/L	10/20/20	MAT	
Fluoride	0.37 mg/L	EPA 300.0	0.09 mg/L	10/20/20	MAT	4
Nitrate Nitrogen	0.41 mg/L	EPA 300.0	0.05 mg/L	10/20/20	MAT	10
Nitrite Nitrogen	< 0.03 mg/L	EPA 300.0	0.03 mg/L	10/20/20	MAT	1
Sulfate	5.7 mg/L	EPA 300.0	0.1 mg/L	10/20/20	MAT	
Cyanide-Total	< 0.005 mg/L	EPA 335.4	0.005 mg/L	10/20/20	JTF	0.02
Total						
Iron	< 0.005 mg/L	EPA 200.7	0.005 mg/L	10/22/20	MBN	0.3
Sodium	8.4 mg/L	EPA 200.7	0.1 mg/L	10/22/20	MBN	N/A
Aluminum	0.004 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.05
Antimony	< 0.001 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.006
Arsenic	0.001 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.01
Barium	0.039 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	2
Beryllium	< 0.001 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.004
Cadmium	< 0.001 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.005
Chromium	< 0.001 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.1
Manganese	< 0.0008 mg/L	EPA 200.8	0.0008 mg/L	10/20/20	IPC	0.05
Mercury	< 0.0001 mg/L	EPA 200.8	0.0001 mg/L	10/20/20	IPC	0.002

Abbreviations/ References:

ML = Minimum Level = LRL = RL
MCL = Maximum Contaminant Level per The EPA
mg/L = Milligrams Per Liter or PPM
ug/L = Micrograms Per Liter or PPB
mpn/100 mls = Most Probable Number Index/ 100 mls
Date Analyzed = Date Test Completed



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Analytical Results

TASK NO: 201019045

Report To: Jon Didleaux
Company: Jon Didleaux
7935 Forest Heights Cir
Colorado Springs CO 80908

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Colorado Springs CO 80908

Task No.: 201019045
Client PO: PAID CHECK 1756
Client Project:

Date Received: 10/19/20
Date Reported: 10/28/20
Matrix: Water - Drinking

Customer Sample ID 7935 Forest Hts
Sample Date/Time: 10/19/20 5:30 AM
Lab Number: 201019045-01

Test	Result	Method	ML	Date Analyzed	Analyzed By	MCL
<i>Total</i>						
Nickel	< 0.001 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	N/A
Selenium	0.013 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.05
Silver	< 0.0005 mg/L	EPA 200.8	0.0005 mg/L	10/20/20	IPC	
Thallium	< 0.001 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	0.002
Zinc	0.010 mg/L	EPA 200.8	0.001 mg/L	10/20/20	IPC	5

Abbreviations/ References:

ML = Minimum Level = LRL = RL
MCL = Maximum Contaminant Level per The EPA
mg/L = Milligrams Per Liter or PPM
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mpn/100 mls = Most Probable Number Index/ 100 mls
Date Analyzed = Date Test Completed



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- adjusted, if necessary, to account for a junior priority appropriation.
- (iv) **Quantity of Bedrock Groundwater** EMN

The quantity of nonrenewable bedrock groundwater is calculated by multiplying the annual appropriation, as specified in the Colorado Groundwater Commission determination or court decrees and well permits, in acre feet, by 100 years. The appropriation shall be adjusted, if necessary, to account for groundwater previously appropriated or extracted. Denver Basin groundwater underlying the project site for which Colorado Groundwater Commission determinations or court decrees or well permits have not been issued may be counted as part of the water supply. The estimates of Denver Basin groundwaters are only permissible for those deep aquifers which will not be needed during the first 20 years of the project.

(d) Available Perfected Groundwater

Available groundwater from groundwater rights perfected prior to enactment of Senate Bill 213 (July 6, 1973) is calculated as follows:

- (i) **Calculating Quantity of Groundwater**

If renewable (i.e. alluvial) multiply the annual appropriation by 300 years; if nonrenewable (i.e. Denver Basin aquifers) multiply the annual appropriation by 100 years. If appropriate make adjustments for the 3/7 rule on the Arkansas River or other extraction limitations.
- (ii) **Calculating Quantity of Pre-1973 Court Decree and Groundwater**

The quantity of groundwater from pre-1973 court decrees and well permits shall be calculated independently, and when appropriate the cylinder of appropriation of the well shall be subtracted from the area of other groundwater calculations.

(10) Finding of Sufficient Quality

In conjunction with applicable State and federal water quality standards and requirements, the proposed water supplies shall meet the following requirements:

(a) Chemical Analysis Required

InFor subdivisions where in which water will be supplied byutilizing individual wells rather than a central water supply system. Aa chemical analysis shall be performed on a representative water sample from every bedrock groundwater source which will be utilized by the subdivision during the first 5 years and from every non-bedrock source to be used by the subdivision. Large subdivisions may require multiple samples

from the same source (not the same well) to ensure representative water quality analyses.

EMN

~~The El Paso County Public Health intent was never to require sampling of all the parameters in the drinking water regulations, but only those that pertain to raw, untreated water intended as a drinking water source obtained from private individual wells in these developments.~~

~~Therefore, the following water quality parameters are all that have been determined to be required for sampling, and for the proper determination of sufficiency in terms of water quality. The required chemical analysis shall test for the following contaminants, and the results must meet the following parameters, which may be updated from time to time by EPCPH without corresponding amendments to this Code being approved. Any such updates to the testing parameters approved by the EPCPH shall be the controlling requirements for testing. For subdivisions served by groundwater wells drawing only from a confined aquifer, however, the chemical analysis does not need to include Exception, the Volatile Organic Chemical Contaminants and, Synthetic Organic Chemical Contaminants, are not required to be tested for when the proposed subdivision is proposed to be served by wells from a confined aquifer. (The EPCPH may require additional testing in some cases, where blending of the water is proposed to be blended, - ie:e.g., -alluvial verseus confined).~~

Volatile Organic Chemical Contaminants and MCL (mg/L):

1. Vinyl chloride 0.002
2. Benzene 0.005
3. Carbon tetrachloride 0.005
4. 1,2 Dichloroethane 0.005
5. Trichloroethylene 0.005
6. 1,4 Dichlorobenzene 0.075
7. 1,1 Dichloroethylene 0.007
8. 1,1,1 Trichloroethane 0.2
9. cis-1,2 Dichloroethylene 0.07
10. 1,2 Dichloropropane 0.005
11. Ethylbenzene 0.7
12. Monochlorobenzene 0.1
13. o-Dichlorobenzene 0.6
14. Styrene 0.1
15. Tetrachloroethylene 0.005

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Inorganic Chemicals and MCL (mg/L):

- 1. Antimony 0.006
- 2. Arsenic 0.01
- 3. Barium 2.0
- 4. Beryllium 0.004
- 5. Cadmium 0.005
- 6. Chromium 0.1
- 7. Cyanide (Total*) 0.2
- 8. Fluoride 4.0
- 9. Mercury... 0.002
- 10. Nitrate 10.0 (as Nitrogen)
- 11. Nitrite 1.0 (as Nitrogen)
- 12. Total Nitrate and Nitrite 10.0 (as Nitrogen)
- 13. Selenium 0.05
- 14. Thallium 0.002

EMN

*If total cyanide is 0.2 mg/L, or greater then further analysis for free cyanide is required.

Secondary Maximum Contaminants :

- 1. Aluminum 0.05 to 0.2 mg/L
- 2. Chloride 250 mg/l
- 3. Corrosivity Non-corrosive
- 4. Iron 0.3 mg/L
- 5. Manganese 0.05 mg/L
- 6. pH 6.5-8.5
- 7. Silver 0.1 mg/L
- 8. Sulfate 250 mg/L
- 9. Total dissolved solids (TDS) 500 mg/L
- 10. Zinc 5.0 mg/L

Radionuclides:

- 1. Gross Alpha/Beta-Water
- 2. Combined radium-226 and radium-2281 5pCi/L

Bacteriological:

- 1. Total Coliform Absence

EMN

(b) Contaminant Levels to Meet Drinking Water Requirements

Maximum permissible contaminant levels shall meet the requirements of the Colorado Primary Drinking Water Regulations, as clarified by the ~~EPCDHEEPCPH~~.

(c) Analysis of Major Ions

Analyses of the major ions calcium, magnesium, potassium, sodium, bicarbonate/carbonate, chloride and sulfate may be required by the ~~EPCDHEEPCPH~~.

(d) Collection Techniques

Samples shall be collected by qualified personnel using standard collection and preservation methods and shall be analyzed within the limits of standard holding times. A chain of custody shall be maintained and documented from sampling to a laboratory analysis. Samples shall be analyzed by a Colorado certified testing laboratory.

(e) Sampling Location and Expiration

Samples from bedrock aquifers shall be collected within one-half (½) mile of the project site or off-site source. If the bedrock source will not be used during the first 5 years of the project and if wells are not available for sampling, the requirement for bedrock aquifer water quality analysis may be deferred as a condition of approval by the BoCC. Samples from shallow alluvial aquifers shall be collected within 500 feet 1/2 mile of the project site or off-site source and ~~shall~~ should be collected from the closest up-gradient well. All samples shall be representative of the source. Where there is no well within one-half (½) of a mile, the determination of the location of the well shall be made by EPCPHHE. Water quality testing and analysis shall only be valid for two (2) years from the date of the report unless an extension to the expiration date is otherwise approved by the EPCPH grants an extension. Analyses for the quality of water obtained from Gcontained aquifers typically do not expire unless otherwise conditioned as such by EPCHEPH.

(f) Water Quality Not Meeting Standards

If the quality of the source water does not meet the standards specified in the Colorado Primary Drinking Water Regulations, as ~~clarified~~ specified by the ~~EPCDHEEPCPH~~, the applicant shall demonstrate that treatment facilities will be constructed and maintained which will bring the water within the standards.

~~(g) Presumption of Water Quality~~

~~In the absence of evidence to the contrary, a presumption is made that residential subdivisions of 4 or fewer lots will meet the water quality standards. In the absence of evidence to the contrary, it is presumed that water supplied from an existing~~

~~Community Water Supply, which operates in conformance with the Colorado Primary Drinking Water Regulations and the CDPHE requirements, as clarified by the EPCDHE, is determined to meet the water quality standards as required by the section.~~

(h)(g) Future Water Quality to Meet Standards

Under foreseeable and likely future conditions, the quality of the proposed water supply shall should meet or exceed the water quality standards established herein. Both on-site and off-site source conditions shall be considered.

(i)(h) Compliance Not to Diminish Other State and Federal Standards

Compliance with this Section is not intended to modify, displace, supersede or diminish compliance with other State and federal water quality requirements.

(C) General Requirements (Clarifications)

(1) Renewable Groundwater Life 300 Years

Water provided from renewable groundwater sources is considered to be annually renewable and, therefore, is considered to have a minimum life of 300 years.

(2) Recharge Not Used to Modify Bedrock Calculations

Groundwater recharge may not be used to modify the calculations of the quantity of extractable groundwater in bedrock aquifers unless it is included in court decrees, well permits, approved augmentation plans or determinations by the Colorado Groundwater Commission and the State Engineer.

(3) Alternative Supplies May be Considered Renewable

Alternative water supplies such as treated effluent may be considered renewable or nonrenewable and shall be evaluated on a case-by-case basis.

(4) Private Arrangements and Agreements

Any private or public arrangements, agreements or contracts that modify, limit, or condition the use of any water rights or water supplies may result in a reduction of the water calculated to be available for subdivision use.

(5) Nonrenewable Water from Off-Site

When nonrenewable water is provided to a development from an off-site location, the calculation of water for purposes of this Section is at the point of delivery to the development or customer, rather than at the point of pumping of the well.