



November 3, 2023

Lekishia Bellamy, Project Planner
El Paso County Planning and Community Development
Transmission via EDARP Portal: epcdevplanreview.com

Re: Foundation Lutheran Church Filing 1
File #: SF2321

Part of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 25, Twp. 12 South, Rng. 65 West, 6th P.M.
Water Division 1, Water District 2
Upper Black Squirrel Creek Designated Basin
CDWR Subdivision File No. 30882 - 2nd Letter

Dear Lekishia Bellamy:

We have received the re-referral concerning the final plat and site development plan for the Foundation Lutheran Church at 10387 Mt Evans Drive in Peyton on a 5.97-acre parcel. The application proposes the creation of a new commercial lot from an open space tract. The commercial lot will have 1-story church with a 250-seat sanctuary, parking lot, and landscaping which will be served by the Paint Brush Hills Metropolitan District (“District”). This letter supersedes the comments this office provided on this development dated July 26, 2023.

Water Supply Demand

The estimated water demand for commercial use is 0.36 acre-feet/year. There does not appear to be any water demands associated with the open space tract.

Source of Water Supply

The proposed water source is service provided by the Paint Brush Hills Metropolitan District (“District”). According to the letter dated May 22, 2023, the District is willing and able to provide 1 single-family-equivalent (SFE) or 0.36 acre-feet/year of domestic water and wastewater services to the church provided that the District’s Rules and Regulations and fees are satisfied. This office has not received information that these requirements have been satisfied.

According to information available to this office, the District has a supply of 147,550 acre-feet (491.83 acre-feet/year based on a 300-year supply) and a commitment of 114,406 acre-feet including the 108 acre-feet (0.36 acre-feet/year x 300 years) associated with this development. Therefore, it appears that the District’s uncommitted supply is 33,144 acre-feet. The information this office has on file for the District is summarized on Table 1, attached.



The District's supplies consist of Determination of Water Right nos. 719-BD¹ and 214-BD; permit nos. 30593-F, 46553-F, 47813-F, and 17048-F in the nontributary Arapahoe and Laramie-Fox Hills aquifers; and 85 acre-feet/year of water contracted from the Meridian Service Metropolitan District. The District is currently seeking to adjudicate additional groundwater in pending application receipt nos. 10021946, 10032077, and 10032078.

The subdivision lies within the allowed place of use and the proposed uses are uses allowed by the determinations and permits. The primary source of water for this subdivision is bedrock aquifers in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to section 37-90-107(7)(a), C.R.S., "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of water determined in the determinations are equal to one percent of the total amounts, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1 and the permit conditions. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

The El Paso County Land Development Code, Section 8.4.7.(B)(7)(b) states:

"(7) Finding of Sufficient Quantity

(b) Required Water Supply. The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years."

The State Engineer's Office does not have evidence regarding the length of time for which this source will "meet the average annual demand of the proposed subdivision." However, treating El Paso County's requirement as an allocation approach based on three hundred years, the allowed average annual amount of withdrawal would be reduced to one third of the total amount, or 147,550 acre-feet as a total amount, which is greater than the total demand of 114,406 acre-feet for all of the District's commitments. As a result, the water may be withdrawn in an annual amount of 492 acre-feet/year² for a maximum of 300 years.

State Engineer's Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(I) and 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

¹ Not included in total since a replacement plan is required. The District is currently seeking a replacement plan for this determination under application receipt no. 10032081.

² This number considers that the 80 acre-feet/year from 17048-F which is subject to section 37-90-107(7)(b), C.R.S. is not allocated on a 100-year or 300-year basis. This number also includes the 85 acre-feet/year from Meridian which is available through a perpetual lease and not allocated on a 100-year or 300-year basis.

Our opinion that the water supply can be provided **without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the water supply which is available to the District is greater than its commitments.

Our opinion is qualified by the following:

The Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced water rights and permits, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100-year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years (or 300 years) used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

Please contact Wenli.Dickinson@state.co.us or (303) 866-3581 x8206 with any questions.

Sincerely,



Ioana Comaniciu, P.E.
Water Resource Engineer

Attachment: Table 1

Ec: Paint Brush Hills Metropolitan District file
Upper Black Squirrel Creek Ground Water Management District

Paint Brush Hills Metropolitan District

Updated: 2/19/2020 By: Weni Dickinson

SUPPLY

Determination or Permit no.	Aquifer	NT / NNT Status	Replacement Plan	Total allocation (af)	Total Allocation (af/yr)	100-yr Availability (af/yr)	300-yr Availability (af/yr)	Volume Available (af)	Comments	Type of Use	Place of Use
Subject to 37-90-107(7)(a).											
719-BD	TDW	NNT-Actual	Still needed	23,710	237.1	0	0	0	Replacement Plan needed. 215-BD cancelled upon issuance of 719-BD.	municipal, domestic, livestock, lawn irrigation, commercial, replacement	PBHMD service area
214-BD	TKD	NNT-4%		29,750	297.5	297.5	99.17	29,750		municipal, domestic, livestock, lawn irrigation, commercial, replacement	945 acre PBHMD service area
30593-F	KA	na		11,300	113	113	37.67	11,300	113 af/yr based on 11-21-1990 SBU and reservation of 113 af/yr to this permit when permit no. 46553-F was issued. Inappropriately listed as a well field under 46553-F in Curt Wells' February 2013 Water Supply Summary table.	domestic, commercial, municipal & industrial	PBHMD service area, by implication
46553-F	KA	NT		18,200	182	182	60.67	18,200	Other wells in well field: 55193-F, 60862-F, 64086-F	municipal	PBHMD service area
47813-F	KLF	NT		38,800	388	388	129.33	38800.00	Other wells in well field: 50877-F, 55192-F, 63429-F, 64084-F	municipal	PBHMD service area
subtotal						981	327	98,050			
Subject to 37-90-107(7)(b).											
17048-F	TKD & KA	na		na	80	80	80	24,000	The amount of its water right is currently uncertain. 80 af/yr is conservatively assumed based on 50 gpm test pump rate on a Well Completion Report and a SBU submitted March 13, 1975.	Industrial, Municipal, Domestic, Fire	PBHMD (formerly Latigo Ranch)
Total Bedrock Supply						1,061	407	122,050			
From Meridian Service MD	not specified	na			85	85	85	25500	Per Sept. 8, 2003 contract Meridian Service MD to supply Six Ninety Nine L.A., LLC, which was assigned to Paint Brush Hills MD per agreement dated April 2, 2004. See also July 22, 2016 letter from Meridian Service MD.	Municipal and export	Undetermined
Total Supply (af)						1,146	492	147,550			

Table 1

Paint Brush Hills Metropolitan District

Updated: 2/19/2020 By: Weni Dickinson

COMMITMENTS

Paint Brush Hills	Phase	# of Lots	Date of SEO opinion	Demand per af/yr/lot	Total commitment per year (af/yr)	Total commitment for 100 yrs (af)	Total commitment for 300 yrs (af)	Total commitment (af)	Comments	Comments
100 year commitments ¹										
Filing 4	II	164	1/22/1987	0.56	91.8	9,184	9,184	Per El Paso County, Filings 4 - 9 approved based on a 100 yr supply		
Filing 5		31	6/19/1995		17.4	1,736	1,736			
Filing 6		48	5/1/1996		26.9	2,688	2,688			
Filing 7		57	6/27/1997		31.9	3,192	3,192			
Filing 8		109	4/9/1999		61.0	6,104	6,104			
Filing 9		88	5/31/2000		49.3	4,928	4,928			
Falcon Middle School					22.0	2,200	2,200	22 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.	Per El Paso County, approved based on a 100 yr supply	
District Greenbelt/Park irrig.					14.0	1,400	1,400	14 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.	Per El Paso County, approved based on a 100 yr supply	
Subtotal		497						31,432		
300 year commitments ¹										
Filing 10		90	3/24/2003	0.40	36.0	10,800	10,800			
Filing 11		81	4/17/2003	0.40	32.4	9,720	9,720			
Filing 12		51	4/17/2003	0.40	20.4	6,120	6,120			
Church					0.2	60	60	0.2 af/yr per Curtis Wells Feb. 2013 table and 2-26-2013 letter.		
Filing 13a		17	6/9/2013		6.9	2,070	2,070	a.k.a. Filing 13 - Phase I		
Scenic View & park		90	2/6/2014	0.36	32.36	9,708	9,708	a.k.a. Filing 14	park uses 0.36 af/yr	
Filing 13b		21	2/26/2014	0.36	7.56	2,268	2,268	a.k.a. Filing 13 - Phase 2		
Filing 13c		135	10/24/2016	0.36	48.6	14,580	14,580	Note: Filing 13C reduced from 150 lots to 135 lots.		
Filing 13d		97	10/24/2016	0.36	34.92	10,476	10,476			
Filing 13e		158	2/27/2019	0.36	56.88	17,064	17,064			
Subtotal					533.7			82,866		
300 year commitments ¹ outside of Paint Brush Hills Subdivision										
Foundation Church		1	TBD	0.36	0.4	0.36	108	108		
								0		
								0		
								0		
								0		
								0		
								0		
								0		
								0		
								0		
Subtotal					0.4	0.4	108.0	108		
¹ El Paso County requires a 300 year water supply as of Nov. 20, 1986, per El Paso County Land Development Code sections 8.4.7.(A)(2) and 8.4.7.(B)(7)(b).										
Total Commitments (af)								114,406		
UNCOMMITTED SUPPLY (AF)								33,144		