



December 14, 2023

Ryan Howser, Project Manager  
El Paso County Development Services Department  
Transmitted via the EPC EDARP Portal: [epcdevplanreview.com](http://epcdevplanreview.com)

**Re: Mayberry Sketch Plan**  
**File #: SKP236**  
Part of the NW  $\frac{1}{4}$ , the NE  $\frac{1}{4}$ , and SW  $\frac{1}{4}$  of Sec. 14 and the E  $\frac{1}{2}$  E  $\frac{1}{2}$  of Sec. 15,  
Twp. 14 South, Rng. 63 West, 6<sup>th</sup> P.M.  
Upper Black Squirrel Creek Designated Basin  
Water Division 2, Water District 10  
CDWR Referral No. 30999 - 2<sup>nd</sup> Letter

Dear Ryan Howser:

We have reviewed the above-referenced referral concerning the Mayberry Sketch Plan on approximately 630 acres which will have residential, commercial, civil/institutional, and open space uses. The purpose of the sketch plan application is to amend the Ellicott Town Center Sketch Plan and Mayberry Sketch Plan. This letter supersedes the comments provided on October 24, 2023 to provide corrections to the calculations on page 2.

This referral does not appear to qualify as a “subdivision” as defined in section 30-28-101(10)(a), C.R.S. Therefore, pursuant to the State Engineer’s March 4, 2005 and March 11, 2011 memorandums to county planning directors, this office will only perform a cursory review of the referral information and provide informal comments. The comments do not address the adequacy of the water supply plan for this project or the ability of the water supply plan to satisfy any County regulations or requirements. In addition, the comments provided herein cannot be used to guarantee a viable water supply plan or infrastructure, the issuance of a well permit, or physical availability of water.

The total water demand for the proposed sketch plan is 824.23 acre-feet/year for 1,720 single-family residences, 815 apartment units, 265 townhome units, a clubhouse, 11 industrial lots, 30.3 acres of commercial development, a school, and a fire station. The water demand for inside uses was estimated based on a demand of 0.26 acre-feet/year per lot consistent with El Paso County’s Land Development Code.<sup>1</sup> Of the 824.23 acre-feet/year of total water demand, 380.03 acre-feet/year is for outside uses. Of the 380.03 acre-feet/year for outside uses, it is proposed that 234 acre-feet/year will be met with reclaimed water from the wastewater facility. Therefore, it appears that total demand is 590.23 acre-feet/year.

The proposed water supply source is service provided by Ellicott Utilities Company, LLC (“Company”). A will-serve letter from the Company committing to serve the proposed developments was not provided with this referral. According to the Memorandum dated October 6, 2023 (“Memo”), the Company owns and controls water rights associated with Determination of Water Right nos. 598-BD and 599-BD and an interest in the Tipton Well, summarized in Table 1.

Determination nos. 598-BD and 599-BD were issued to Ellicott Springs Resources, LLC on November 8, 2004 and were amended September 19, 2006. Determination no. 598-BD allows an average annual withdrawal of 161 acre-feet/year for 100 years from the nontributary Laramie-Fox Hills aquifer. Determination no. 599-BD allows an

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<sup>1</sup> The Applicant should be aware that the proposed household use of 0.26 acre-feet/year per unit used in estimating the above demand is less than what this office typically views as an adequate household supply. However, the Applicant has previously provided an analysis based on actual water usage data from the Viewpoint Estates, Antelope Park Ranchettes, and Sunset Village developments, and applied this estimated demand to the future development. This analysis is valid so long as the units within the existing developments have comparable water demands to those planned for the Mayberry development.



average annual withdrawal of 78.7 acre-feet/year for 100 years from the not-nontributary (actual impact replacement requirement) Arapahoe aquifer. The allowed uses of 598-BD and 599-BD are domestic, irrigation, commercial, industrial, firefighting, recreation, replacement, and piscatorial use. The allowed place of use is the 551.26 acres generally described as the W ½ and the W ½ of the NE ¼ of Sec. 14 and the E ½ of the E ½ of Sec. 15, all in Twp. 14 South, Rng. 63 West, 6<sup>th</sup> P.M. The proposed water uses are allowed by the determinations. **However, the E ½ of the NE ¼ of Sec. 14 which is subject of this sketch plan is not an allowed place of use for Determination nos. 598-BD and 599-BD. Additionally, a Commission-approved replacement plan to provide replacement water to the alluvial aquifer is required prior to obtaining any permits and pumping Arapahoe aquifer water allocated under Determination no. 599-BD.**

According to the Memo, the Company has an 82 acre-feet/year interest in the Tipton Well. The 82 acre-feet/year that the Company claims a right to is part of 225 acre-feet/year of fully consumable and exportable alluvial groundwater associated with the Tipton Well (permit no. 16253-RFP-R) adjudicated in Colorado Ground Water Commission Case No. 91GW01 for use and export outside of the Upper Black Squirrel Creek Designated Ground Water Basin (“Basin”). Use of the well is limited to irrigation of 100 acres described in case no. 91GW01 and on the permit, municipal, and commercial and/or industrial uses inside the Basin subject to the conditions of case no. 91GW01. According to the Assignment of Membership Interest and the Assignment and Assumption of Partnership Interests provided in the Memo, the Company has been conveyed an interest in 82 acre-feet/year from the Tipton Well to be delivered by the Cherokee Metropolitan District (“District”). **A change of owner name form must be filed for permit no. 16253-RFP-R to reflect the joint ownership of 16253-RFP-R by the District and the Company.**

**Table 1. Quantity of Water Supply and Commitments.**

Source	Aquifer Type	Determination / Permit no.	Quantity Available based on 100-year Supply (acre-feet/year)	Quantity Available based on 300-year Supply (acre-feet/year)
Laramie-Fox Hills	Nontributary	598-BD	161.0	53.66
Arapahoe	Not-nontributary	599-BD	78.7	0 <sup>2</sup>
Tipton Well	Tributary	16253-RFP-R	82.0	82.0
Total			321.7	135.66
Commitments				
Mayberry Filings 1, 1A, 2, 2A, 3, 4, and 5			120.07	120.07
Remaining Supply (300-year Supply)				15.59

Based on the above, the Company’s supply of 135.66 acre-feet/year exceeds its water commitments of 120.07 acre-feet/year based on 300 years.

A review of our records shows permit nos. 76247 and 52892 located on the subject property. Permit no. 76247 was issued on August 26, 1974 for 40 acres described as the NE ¼ of the NW ¼ of Sec. 14 for domestic and livestock use. It appears that the 40 acres for which the well was located was subdivided as part of the Mayberry Filing No. 2 Subdivision and therefore the conditions under which this permit were issued no longer apply. Based on the depth of the well, the well likely produces from the alluvial aquifer and/or not-nontributary Arapahoe aquifer.

Permit no. 52892 was issued on March 13, 1972 for domestic and livestock purposes. Based on the depth of the well, the well likely produces from the alluvial aquifer and/or not-nontributary Arapahoe aquifer. **Well nos. 76247 and 52892 must be re-permitted pursuant to a Commission-approved replacement plan or plugged and abandoned prior to any subdivision approval.**

<sup>2</sup> This quantity is shown as a zero since no water can be pumped from the Arapahoe aquifer water determined in 599-BD until a replacement plan is approved by the Commission.

**In order for this office to provide a favorable opinion of any new subdivisions within the Mayberry Sketch Plan, the Company must provide evidence that it has an adequate supply to meet its commitments.** As required by section 30-28-136(1)(h)(II), C.R.S., a report from the Company documenting its ability to supply the subdivision must be provided. The report needs to contain the following as further described in the attached March 16, 2005 Updated Memorandum Regarding Subdivisions.

1. The Company must provide information that demonstrates that the Company has sufficient water resources to meet all of its commitments in terms of an overall water supply, considering annual and long-term availability, including Elbert County's 300 year water supply requirement (e.g. that its supply exceeds the demand on the Company). Such information must specifically include:
  - a. In order for the Company to claim Determination no. 599-BD as part of its available supply, a Commission-approved replacement plan to provide replacement water to the alluvial aquifer is required prior to obtaining any permits and pumping Arapahoe aquifer water allocated under Determination no. 599-BD.
  - b. The Company must provide evidence that the water from Determination nos. 598-BD and 599-BD can be used within the development (e.g. obtain an approved change of place of use for the determinations) since the E ½ of the NE ¼ of Sec. 14 subject of this sketch plan is not an allowed place of use for the determinations.
2. A map of the Company's service area.
3. Well nos. 76247 and 52892 must be re-permitted pursuant to a Commission-approved replacement plan or plugged and abandoned prior to any subdivision approval.
4. A [change of owner name form](#) must be filed for permit no. 16253-RFP-R to reflect the joint ownership of the water rights to 16253-RFP-R by the District and the Company.

Lastly, according to the submitted material, stormwater detention structure(s) may be developed on the site. The applicant should be aware that, unless the structure(s) can meet the requirements of a "storm water detention and infiltration facility" as defined in Designated Basin Rule 5.11, the structure may be subject to administration by this office. The applicant should review Rule 5.11 to determine whether the structure meets the requirements of the Rule and ensure any notification requirement is met.

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

Sincerely,



Ioana Comaniciu, P.E.  
Water Resource Engineer

Ec: Permit nos. 76247 and 52892 files  
Upper Black Squirrel Ground Water Management District  
March 16, 2005 Updated Memorandum Regarding Subdivisions