



COLORADO

Division of Water Resources

Department of Natural Resources
1313 Sherman St., Suite 821
Denver, CO 80203

April 20, 2023

Ryan Howser
El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910-3127

RE: The Commons at Falcon Field Preliminary Plan
Part of the N ½, Sec. 7, T13S, R64W, 6th P.M.
Water Division 2, Water District 10
Upper Black Squirrel Creek Designated Basin

Dear Mr. Howser:

We have received your submittal concerning the above-referenced proposal for the subdivision of 57.67 acres into 169 single family residential lots and 8 regional commercial lots. This office provided written comments, dated March 4, 2021, on a previous version of the referral.

Water Supply Demand

According to the Water Supply Information Summary, the total estimated water requirement for the 169 single family residential lots and 8 regional commercial lots is 79.14 acre-feet per year for a 300 year water supply.

Source of Water Supply

Woodmen Hills Metropolitan District (“District”) is the proposed water supplier. The District has provided a letter dated March 14, 2023 committing to serve the subdivision with a water commitment of 79.14 acre-feet per year.

The District’s sources of water are a combination of bedrock aquifer allocations from the Denver Basin as well as alluvial sources. The State Engineer’s Office does not have evidence regarding the length of time for which the bedrock aquifer sources will be a physically and economically viable source of water. According to 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 are equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

In the *El Paso County Land Development Code*, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

“- Finding of Sufficient Quantity - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years.”

The State Engineer’s Office does not have evidence regarding the length of time for which the bedrock aquifer sources 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 annual amounts of water available from the bedrock aquifers that may be



withdrawn for a maximum period of 300 years are equal to one-third of one percent of the total amount.

Information available in our files indicates the District's water supply totals approximately 1,426 acre-feet/year for a period of 300 years (987 acre-feet/year from bedrock aquifers and 439 acre-feet/year from the alluvial aquifer), and it has approximately 1,181 acre-feet/year committed to supplying subdivisions and 30 acre-feet/year committed to replacement obligations, for a total commitment of 1,181 acre-feet/year.

The uncommitted annual water supply of 216 acre-feet/year is more than the estimated annual demand of 79.14 acre-feet/year for Falcon Fields Subdivision.

A review of our records shows well permit nos. 1924 and 47447 located on the subject property.

Well permit no. 1924 was issued on September 5, 1958 for domestic use in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Sec. 7, Twp. 13 S, Rng. 64 W, Sixth P.M. and withdraws groundwater from the alluvium. Upon approval of this subdivision the conditions under which this permit was issued would no longer exist, making the well out of compliance with its permit. Continued use of the well would require that it be re-permitted. As the well would be located within a post-June 1, 1972 subdivision material injury to other water rights would be a consideration in re-permitting the well, which would require approval of a replacement plan to prevent injury to water rights in the alluvial aquifer.

State Engineer's Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply is not adequate and cannot be provided without causing injury to decreed water rights.

It appears that in order to obtain a favorable opinion from this office on the proposed water supply to this subdivision, the applicant must do the following.

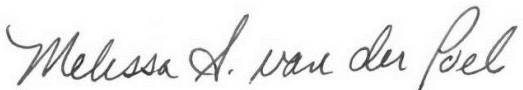
1. The applicant should clarify if the well with permit no. 1924 is located on the subject property. If the well is located on the property and will be a proposed water source, the Applicant must obtain a replacement plan to prevent injury to water rights in the alluvial aquifer. If the well is located on the property and will not be used as a water source for the property the well must be plugged and abandoned prior to subdivision approval.

Additional Comments

According to the Falcon Field Metropolitan District, Falcon, CO Water Resources Report by JDS-Hydro Consultants dated January 2021 ("Water Resources Report") Woodmen Hills Metropolitan District claims water associated with Determination of Water Right Nos. 503-BD, 504-BD and 505-BD. According to those Determination of Water Rights the place of use of the water is limited to the 54.9 acres of overlying land further described in the determinations. Such water should be removed from the available water supplies until such time as the place of use of the water is changed to allow use within the District. The District should also provide information showing the water rights associated with Determination of Water Right Nos. 503-BD, 504-BD, 505-BD, 1312-BD, 1313-BD and 1314-BD were transferred to the District.

Should you have any questions, please contact Melissa A. van der Poel at Melissa.vanderpoel@state.co.us.

Sincerely,

A handwritten signature in black ink that reads "Melissa A. van der Poel". The signature is written in a cursive style with a large initial 'M' and 'P'.

Melissa A. van der Poel, P.E.
Water Resources Engineer

Ec: Upper Black Squirrel Creek Ground Water Management District
SEO referral no. 27538