



October 9, 2024

Ryan Howser, Project Manager
El Paso County Development Services Department
Transmission via email: ryanhowser@elpasoco.com

Re: Flying Horse North Filing 4
File #: SF2422

Part of the NE 1/4 of Sec. 36, Twp. 11 South, Rng. 66 West, 6th P.M. and a portion of the S 1/2 of Sec.30. and N 1/2 of Sec. 31, Twp. 11 South, Rng. 65 West, 6th P.M.

Water Division 1, Water District 8 and Water Division 2, Water District 10

Dear Ryan Howser:

We have reviewed your referral concerning the proposal for a final plat of 48 residential single-family rural estate lots of 2.5+ acres on 175.75 acres within the Flying Horse North development. The proposed water supply source is individual on lot wells in the not-nontributary Dawson aquifer covered by the augmentation plan approved by the Division 1 Water Court in case no. 16CW3190 (amended by 18CW3185).

Our office previously provided comments on the Flying Horse North Preliminary Plan (SF-17-012) by our letters dated January 17, 2018, May 17, 2018, July 3, 2018 and September 19, 2018. According to information previously received by this office, the Flying Horse North development was approved for 283 single-family residential lots, 324.1 acres of open space comprised of a golf course, and a park on a 1,417.8-acre parcel.

Water Supply Demand

The proposed water demand is 0.70 acre-feet/year for household use (0.3 acre-feet/year) and irrigation use (0.4 acre-feet/year), or 33.6 acre-feet/year for all 48 lots. For all planned 283 lots with a demand of 0.70 acre-feet/year, the demand would be approximately 198 acre-feet/year.

Source of Water Supply

The proposed water supply source is individual on lot wells in the not-nontributary Dawson aquifer decreed in consolidated case nos. 94CW023(B) and 04CW098 and covered by the augmentation plan approved by the Division 1 Water Court in case no. 16CW3190 (amended by 18CW3185). Such water rights are currently owned by the Flying Horse North Homeowner's Association and leased to the Applicant, PRI #2 LLC.



Well permits will be applied for in the name of the homeowner's association with a certificate to each lot owner for 0.7 acre-feet/year of 16CW3190 Dawson water.

The decreed plan for augmentation in case no. 16CW3190 (amended by 18CW3185) allows for an average diversion of 198 acre-feet annually and 59,400 acre-feet total over a 300-year period. According to the decree, the allowed withdrawal from each Dawson aquifer well is limited to 0.7 acre-feet/year/lot totaling 198 acre-feet/year for the 283 lots for the entire development. The in-house use is limited 84.9 acre-feet/year while the irrigation of individual lots and open space land is limited to 113.1 acre-feet/year. According to the augmentation plan, no Dawson aquifer well approved pursuant to the plan for augmentation shall be allowed to pump water for any purpose unless it is also used in a residence on the lot on which such well is located, or for irrigation of open space lands.

The proposed source of water for this subdivision is a bedrock aquifer 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 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in consolidated case nos. 94CW023(B) and 04CW098 are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. 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 300 years, the annual demand for this one lot equals the allowed average annual amount of withdrawal of 0.7 acre-feet/year, allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Additional Comments

The application materials indicate that three stormwater detention structures will be constructed as a part of this project. The applicant should be aware that unless the

structures can meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), C.R.S., the structure may be subject to administration by this office. The applicant should review DWR’s *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, attached, to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The applicant is encouraged to use *Colorado Stormwater Detention and Infiltration Facility Notification Portal* to meet the notification requirements, located at <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>.

State Engineer’s Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(l), C.R.S., it is our opinion that the proposed water supply for the 48 lots is adequate and can be provided without causing injury to decreed water rights, **provided the total annual amount allowed to be withdrawn by the Dawson aquifer wells for the total development will not exceed the total annual amount allowed by the augmentation plan approved in case no. 16CW3190.**

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

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 proposed uses is equal to the annual amount of water required to supply the development.

Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, 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.

Should you have any questions, please contact me at this office at 303-866-3581 x8264 or ioana.comaniciu@state.co.us

Sincerely,

A handwritten signature in black ink, appearing to read "Ioana Comaniciu".

Ioana Comaniciu, P.E.
Water Resource Engineer

Ec: Subdivision File 32509

/IDC