



## COLORADO

### Division of Water Resources

Department of Natural Resources  
1313 Street, Room 821  
Denver, CO 80203

September 16, 2019

Nina Ruiz  
El Paso County, Planning and Community Development  
Transmitted via email:  
[ninaruiz@elpasoco.com](mailto:ninaruiz@elpasoco.com)

RE: SBR Racing Minor Subdivision  
SW1/4 of SE1/4 of Sec. 22, T12S, R63W, 6<sup>th</sup> P.M.  
Water Division 2, Water District 10  
Upper Black Squirrel Creek Designated Basin

Dear Mr. Fitzpatrick:

We have received the additional information submittal by the Applicant on September 10, 2019 and September 12, 2019 concerning the above-referenced proposal to subdivide 39.154 acres into two lots, a Lot 1 of 35.01 acres and a Lot 2 of 4.144 acres. This letter replaces our previous letters dated December 6, 2017 and September 3, 2019.

#### **Water Supply Demand**

The estimated water requirement for Lot 2, which would continue to be used for an existing single-family residence, is currently 0.3 acre-feet per year for in-house residential purposes, but may increase to 1.0 acre-foot for additional domestic uses. According to an email from the Applicant's attorney, Chris Cummins, dated September 12, 2019, the Applicant currently intends to continue to operate his business on Lot 1 as a "dry lot" (i.e. without a demand for water supplied by the lot owner), which could continue indefinitely. Applicant may, if economically feasible and sensible at some point in the future, construct a well(s) to the underlying nontributary Arapahoe and/or Laramie-Fox Hills aquifer to provide water to Lot 1. According to the Denver Basin Groundwater Assessment ("Assessment") by Julia M. Murphy dated March 27, 2018 the maximum water requirement for Lot 1 would be 9.7 acre-feet per year for the irrigation of 4 to 6 acres of irrigated grasses, commercial use in a services building, landscape irrigation and fire protection.

#### **Source of Water Supply**

According to the Water Resources and Water Quality Report for Seigel Boys Racing, LLC dated August 6, 2019 ("Water Supply Letter"), Lot 2 will be served by an existing Denver aquifer well that would operate pursuant to Determination of Water Right no. 3718-BD and any future water demands on Lot 1 will be served by a proposed Arapahoe and/or Laramie Fox Hills aquifer well that would operate pursuant to Determination of Water Right nos. 3717-BD and 3716-BD respectively.

Determination of Water Right nos. 3716-BD, 3717-BD and 3718-BD were issued by the Ground Water Commission ("Commission") on July 12, 2019, for the parcel that is the subject of this referral. The following amounts of water were determined to be available:



Aquifer	Determination of Water Right Number	Annual amount available based on 100 yr. allocation approach (acre-feet/year)	Type
Denver	3718-BD	13.21	Not Nontributary-Actual
Arapahoe	3717-BD	14.3	Nontributary
Laramie-Fox Hills	3716-BD	15.3	Nontributary

The proposed sources of water for this development are bedrock aquifers in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which these source 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 in 3716-BD, 3717-BD and 3718-BD 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.

Withdraw of the not-nontributary Denver Aquifer ground water that is the subject of Determination of Water Right no. 3718-BD requires Commission approval of a replacement plan. That replacement plan was approved by the Commission on July 12, 2019. The replacement plan allows withdrawal of 0.3 acre-feet annually from the Denver Aquifer for in-house use only in one single family dwelling until such time as the Applicant demonstrates replacement water is being delivered from Arapahoe or Laramie-Fox Hills aquifer sources so as to allow the well to pump a total of 1 acre-foot annually. The Denver aquifer water will be withdrawn through an existing well, currently operated under well permit no. 115609, for a period of 300 years. Once withdrawal from the Denver aquifer well increases to 1 acre-foot annually the use of the well will be limited to domestic use (in-house use in 1 single family dwelling, landscape and gardens, domestic animal watering).

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 Applicant's replacement plan allows withdrawal of Denver aquifer water for 300 years, therefore withdrawals from the Denver aquifer under that plan for use on Lot 2 would meet the county's requirement of providing the average annual demand of the subdivision for a period of 300 years. At a maximum demand of 9.7 acre-feet per year for Lot 1, water would need to be withdrawn from both the Arapahoe aquifer and Laramie-Fox Hills aquifer to meet the county's 300 year water requirement. According to the Assessment Arapahoe aquifer wells may pump up to 9.7 acre-feet for 144 years, or lesser amounts for longer durations, and Laramie-Fox Hills wells may pump a maximum of 9.7 acre-feet for 156 years, or lesser amounts for a longer durations.

In accordance with condition no. 17 of Determination of Water Right no. 3718-BD and condition no. 25 of the Replacement Plan for Determination of Water Right no. 3718-BD existing well permit no. 115609 must be re-permitted to operate pursuant to the determination and replacement plan. A well permit application to re-permit the well has been submitted (receipt no. 3693764).

**State Engineer's Office Opinion**

Based upon the above and pursuant to Sections 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply for Lot 2 is adequate and can be provided without causing injury to water rights and the proposed water supply for Lot 1 that relies on Arapahoe aquifer and/or Laramie-Fox Hills aquifer wells is adequate and can be provided without causing injury to water rights. To the extent that Lot 1 is proposed to permanently be a "dry lot" with no proposed water source our office has no comments on the adequacy of the water supply for Lot 1 since none is proposed.

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.

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 on the subdivided land is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

Our opinion is qualified by the following:

The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes 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 or the applicant have any questions, please contact Joanna Williams at (303) 866-3581 x8265.

Sincerely,



Keith Vander Horst, P.E.  
Chief of Water Supply, Basins

cc: Division 2 Division Engineer  
District 10 Water Commissioner  
Upper Black Squirrel Creek Ground Water Management District  
Well Permit no. 115609  
Subdivision File 24122

jmw: SBR\_Sep2019\_2.doc