

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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March 19, 2020

SF-19-21      Glen at Widefield Subdivision Filing No. 10  
Final Plat

Reviewed by:      Cole Emmons, Senior Assistant County Attorney  
Edi Anderson, Paralegal

*MCE*

### **FINDINGS AND CONCLUSIONS:**

1. This is a final plat proposal by Glen Investment Group No. VIII, LLC ("Applicant"), to subdivide an approximately 10.47 acre parcel into 40 single-family residential lots. This proposed final plat is the fourth phase of the Glen at Widefield East Subdivision. The property is zoned RS-6000 (Residential Suburban).

2. The Applicant has provided for the source of water to derive from the Widefield Water and Sanitation District ("District"). Pursuant to the Water Supply Information Summary for the Glen at Widefield Filing No. 10, the applicant estimates its annual water needs to serve household use for the entire subdivision at 14.0 acre-feet, based on the District's 0.35 annual acre-feet per single-family equivalent. Based on these figures, the Applicant must be able to provide a supply of 4,200 acre-feet of water (14.0 acre-feet/year x 300 years) to meet the County's 300 year water supply requirement. Since the District's water is considered annually renewable (see below), it is considered to already have a minimum life of 300 years, and therefore, does not have to reserve this total quantity of water.

3. Under Section 8.4.7.C.1., LDC, "[w]ater provided from renewable ground water sources is considered to be annually renewable and, therefore, is considered to have a minimum life of three hundred (300) years." Given the general well locations which place most of the wells approximately within one to two miles of either Fountain Creek or Jimmy Camp Creek, given the augmentation supply of transmountain Frying Pan/Arkansas Project water which is a tributary renewable source, and given the representations of JDS Hydro, the District's Engineer, that "the system does not rely on any non-renewable water sources," it appears the proposed water supply is an annual

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renewable source and falls within the provisions of Section 8.4.7.C.1., and thus the proposed supply is considered to have a minimum life of 300 years.

4. The District provided a letter of commitment for the entire Glen at Widefield East Subdivision dated July 13, 2015 in which the District committed to providing water service to the entire subdivision of 595 residential lots, plus 1 small park with an annual water requirement of 235.17 acre-feet. The District's Engineer provided a subsequent letter dated August 5, 2019 addressing Filing No. 10 and stated that the District "commits to providing water and sewer service to the above mentioned subdivision per this letter....The water commitment is for 'The Glen at Widefield Subdivision Filing No. 10' being 40 Residential Lots and 14.00 acre-feet, is wholly included in previous 'The Glen at Widefield East Subdivision' commitment."

5. Applicant's proposal included a Water and Wastewater Report dated July 27, 2015. The Report indicates that the District has "current Legal Water Supply Holdings" estimated at 9,495 annual acre-feet, "current Developed Physical Supply" of 5,246 annual acre-feet, and a "three year running average actual use" of 2,464 acre-feet. This would yield an estimated surplus of approximately 2,782 acre-feet based on these figures.

6. PFCs. On May 19, 2016, the Environmental Protection Agency ("EPA") announced that it lowered the health advisory levels ("HAL") for perfluorinated compounds ("PFC"), to 70 parts per trillion. One of the three local water providers whose PFC levels now exceed the EPA's HAL is Widefield Water and Sanitation District. There has been much coverage in the local press and much public concern expressed over PFCs recently. The District Manager provided a letter dated July 29, 2016 (see **Exhibit 1** attached hereto), in which he explains that the PFCs are unregulated and unenforceable, and the new HAL "... in no way impacts or reduces Widefield Water and Sanitation District's water supply quantity or our ability to serve water to our current or future customers."

7. In a letter dated November 25, 2019, the State Engineer reviewed the application to subdivide the 10.471 +/- acres into 40 single-family residential lots. The Engineer reviewed this matter based on information provided in the Water Supply Information Summary and the District's letter dated August 5, 2019, which estimated water requirements at a total of 14.0 acre-feet per year for Filing 10. The State Engineer stated that according to their records, "it appears Widefield has sufficient water resources to serve the proposed development" and further, "pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply is adequate and can be provided without causing injury to decreed water rights."

8. Analysis: As indicated, the District provided a District Water and Wastewater Report dated July 27, 2015, delineating the sources of the District's water supply, which is based on surface water rights, renewable groundwater, and a mix of

various sources. The Report notes that the District does not rely on any non-renewable water sources and the current legal water supply holdings of the District are estimated at 9,495 annual acre-feet. The current developed physical supply is 5,246 acre-feet and the three year average actual use is 2,464 acre-feet, which would leave a surplus of *approximately 2,782 acre-feet based on these figures*. The water supply for Filing 10 was previously accounted for as part of the Glen at Widefield East Subdivision preliminary plan. With a proposed annual demand of 14.0 acre-feet and based on the current commitments of the District and the available water supply, it appears the proposed water supply will be sufficient for the Glen at Widefield Filing No. 10.

9. Section 8.4.7(B)(10)(g), of the El Paso County Land Development Code allows for the presumption of acceptable water quality for projects such as this where water is supplied by an existing Community Water Supply operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

10. Therefore, based upon the finding of sufficiency and no injury by the State Engineer, the District's commitment, the District's explanation that PFCs will not affect the quantity of the District's water supply, and based on the requirements below, the County Attorney's Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability. The El Paso County Health Department may wish to confirm that the District is in compliance with the water quality regulations.

#### **REQUIREMENTS:**

A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, limitations, and specifications set by the District.

cc: Gabe Sevigny, Project Manager, Planner II



37 Widefield Boulevard, Colorado Springs, Colorado 80911

RECEIVED

AUG 01 2016

El Paso County  
Attorney's Office

July 29, 2016

Cole Emmons  
County Attorney's Office  
27 East Vermijo Avenue  
Colorado Springs, Colorado 80903

**Re: Perfluorinated Compounds**

Dear Mr. Emmons:


Due to all of the negative media pertaining to PFC's in the water, I wanted to write to you to explain what has occurred and to reiterate in writing that the new health advisory level for PFC's in no way impacts or reduces Widefield Water and Sanitation District's water supply quantity or our ability to serve water to our current or future customers.

On May 19, 2016, the Environmental Protection Agency (EPA) announced it lowered the health advisory levels (HAL's) for both PFOS and PFOA to 70 parts per trillion. In addition, the Colorado Department of Public Health and Environment (CDPHE) decided to include PFHpA into the 70 parts per trillion combined level. By adding three of the PFC's together and lowering the level, the wells in the Widefield aquifer do not meet the new Health Advisory Level. Prior to May 19, 2016, Widefield Water and Sanitation District's well water was below the former Health Advisory Level for PFC's. PFC's are unregulated and unenforceable.

As an unregulated contaminant the EPA nor CDPHE requires public water suppliers to do anything about exceeding the health advisory level for PFC's other than notifying customers that the water may at times exceed the new HAL. WWSD can legally operate all of our wells without providing any form of treatment. Although we are not required by regulations to treat for or remove PFC's from the water, WWSD plans on designing and building a treatment plant(s) to remove PFC's in order to restore and maintain consumer confidence. We are also currently working with the Air Force, who has authorized funds to help us mitigate the PFC concerns, as it is suspected that the Air Force's use of firefighting foams may have contributed to, or caused the PFC contamination.

Widefield Water and Sanitation District water quantity or ability to deliver water is not at all impacted by the PFC issue in any way. In addition, we plan on having it mitigated before next year's high summer demand period.

Sincerely,

  
Steve Wilson, District Manager

