



June 28, 2023

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

Sent via online portal at: <https://epcdevplanreview.com/Agencies/Home>

RE: Mayberry Subdivision Filing 4  
NW ¼ NE ¼ Sec. 14, Twp. 14S, Rng. 63W, 6<sup>th</sup> P.M.  
Upper Black Squirrel Creek Designated Basin  
Water Division 2, Water District 10  
CDWR Assigned Subdivision No. 30807

Dear Ryan Howser:

We have received a referral regarding the above-referenced proposal to subdivide a 9.78 ± acre tract of land into eight commercial lots. According to the submittal, the proposed supply of water and wastewater disposal is to be served by the Ellicott Utilities Company, LLC ("Company").

### **Water Supply Demand**

According to the Water Supply Information Summary and "Mayberry, Colorado Springs Filing No. 4 - Water Resource Report" ("Report") prepared by Respec Water Engineers dated May 18, 2023, the total estimated water demand is 3.03 acre-feet/year (2.35 acre-feet/year for industrial use, and 0.68 acre-feet/year for the irrigation of 1500 square-feet per lot).

### **Source of Water Supply**

The proposed water supply source is service provided by Ellicott Utilities Company, LLC ("Company").

### **Water Rights Owned and Controlled by the District**

According to the report, the Company owns and controls water rights associated with Determination of Water Right Nos. 598-BD and 599-13D, an interest in the Tipton Well and the Benton Well. For purposes of this letter only the water associated with Determination of Water Right no. 598-BD and the Tipton Well is considered, since water from Determination of Water Right no. 599-BD and the Benton well are not currently legally available for use within the proposed development.

Determination of Water Right No. 598-BD was issued November 8, 2004 and allows an average annual withdrawal of 161 acre-feet/year for 100 years from the Laramie-Fox Hills aquifer for domestic, irrigation, commercial, industrial, firefighting, and recreational use. The allowed place of use is the 551.26 acres generally described as the W ½ and the W ½



of the NE  $\frac{1}{4}$  of Section 14 and the E  $\frac{1}{2}$  of Section 15, all in Township 14 South, Range 63 West of the 6<sup>th</sup> P.M. Mayberry Phase 1 PUD is within this allowed place of use.

#### Present and Anticipated Demand

According to the letter dated April 12, 2023, the Company is committed to providing 4.96 acre-feet/year to serve the proposed water uses for the Mayberry Filing 4 development. According to the Report, the District has a present demand of 86.69 acre-feet per year based on its current commitment to serving Mayberry Filings 1, 2, and 3. The anticipated demand due to its future commitments consist of serving Mayberry Filing 4 is 3.03 acre-feet/year. Therefore the total anticipated demand of future commitments by the District is 89.72 acre-feet/year.

The Company has no other water commitments at this time. However the Company's infrastructure is used to deliver 50 acre-feet per year of water controlled by the Cherokee Metropolitan District ("Cherokee") to the Viewpoint Estates/Antelope Park Ranchettes subdivisions.

#### Uncommitted Firm Supply

A proposed source of water for this development (Determination no. 598-BD) is a bedrock aquifer allocation from the Denver Basin. 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 in Determination of Water Right No. 598-BD is 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.

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 allowed average annual amount of withdrawal of 161 acre-feet/year from the Laramie-Fox Hills aquifer would be reduced to one third of that amount, or 53.67 acre-feet/year. The Company anticipates a 5% transit loss in delivering the water supply, therefore an amount of 50.98 acre-feet/year is available from this source to supply the development.

According to previous reports, 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 alluvial groundwater associated with the Tipton Well (permit nos. 16253-RFP-R and 27574-FP) adjudicated in Colorado Ground Water Commission Case No. 91GW01 for municipal, commercial and/or industrial use or export outside of the Upper Black Squirrel Creek Designated Ground Water Basin. The Company anticipates a 5% transit loss in delivering the water supply, therefore an amount of 77.9 acre-feet/year is available from this source to supply the development.

The uncommitted annual water supply of 128.88 acre-feet/year (50.98 acre-feet/year from 598-BD and 77.9 acre-feet/year from the Tipton well) is more than the estimated annual future commitment of the Company.

### **State Engineer's Office Opinion**

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(l), that the anticipated water supply can be provided without causing material injury to decreed waters.

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 is greater than the annual amount of water required to supply the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Ground Water Commission 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 aquifer, 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 or the applicant have questions regarding any of the above, please feel free to contact me directly.

Sincerely,



Kate Fuller, P.E.  
Water Resource Engineer  
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