



May 1, 2018

Nina Ruiz
El Paso County Development Services Department
Transmission via email: NinaRuiz@elpasoco.com

**RE: Flying Horse North Filing 1-Final Plat
File No. SF181
Portions of the Sections 34, 35 and 36, T11S, R66W and portions of Section 30 and 31, T11S,
R65W, 6th P.M.
Water Division 1, Water District 8**

Dear Ms. Ruiz:

We have reviewed your referral of April 26, 2018 concerning the above referenced proposal for the final plat of Filing 1 of the Flying Horse North PUD consisting of 80 lots on 557 acres. Our office previously provided comments on the Flying Horse North Preliminary Plan (SF-17-012) and Flying Horse North Filing 1 Final Plat (SF-181) by our letter dated January 17, 2018. Residential lots will be served by individual on-lot wells and septic systems. The Applicant obtained an augmentation plan for Dawson aquifer wells in Division 1 Water Court case no. 2016CW3190.

Water Supply Demand

The Subdivision Summary Form Sheet provided indicates that the property will be subdivided into 80 single-family residential lots and the total demand required for Filing 1 is 625 gallons/day/unit (0.7 acre-foot/year/lot). In our previous letter we have requested clarification whether Dawson aquifer wells will be drilled specifically for the irrigation of common areas or if the on lot Dawson aquifer wells will be used for that purpose. The requested information was not provided. In the Letter of Intent for Filing 1, the Applicant indicated that the proposed golf course for Filing 1 will use water from a well drilled into the Arapahoe aquifer, as long as the aquifer will continue to yield sufficient amount of water necessary for the golf course, otherwise it will become open space. Based on the information provided it's still not clear if the common areas will be irrigated and whether Arapahoe aquifer water will be used for the irrigation of common areas.

According to our records, on July 24, 2017 the Applicant obtained well permit no. 81145-F for the amount of water transferred to the Applicant in case no. 2004CW098 in the Arapahoe aquifer (239 acre-feet). The use of ground water from this well is limited to municipal, industrial, domestic, commercial, irrigation, stock watering, recreational, fish and wildlife, fire protection, and augmentation purposes. Our records show that the well was constructed on November 17, 2017. If a pump is not installed in the well prior to the expiration date of July 24, 2018, the Applicant has the option to apply for an extension request. A one-time, one-year extension may be granted for good cause shown.

In addition previously we have requested clarification on all the proposed uses for on-lot wells and irrigation wells within the subdivision and the water requirement for those uses. The requested



information was not provided therefore the total water requirements for Filing 1 and all of the proposed uses for Filing 1 are still not clear.

Source of Water Supply

The proposed source of water for this subdivision is individual on lot wells producing from the not nontributary Dawson aquifer. According to previous information provided, Applicant owns a portion of the ground water adjudicated in case no. 94CW023(B) underlying 701 acres generally located in Sections 30 and 31, Township 11 South, Range 65 West of the 6th P.M. Also, the Applicant’s predecessor-in-interest entered into a Groundwater Production Lease, No. OT-109328 with the State Board of Land Commissioners. Based on the same the Groundwater Production Lease, the Applicant leased the not nontributary and nontributary groundwater underlying 640 acres located in Section 36, Township 11 South, Range 66 West of the 6th P.M. decreed in case no. 2004CW098 through February 27, 2048. On that date all of the groundwater rights from case no. 2004CW098 revert to the Applicant. The estimated amounts owned and leased by the Applicant are listed in the table below:

Aquifer	Annual amount available to Applicant from case nos. 94CW023(B) and 2004CW098 (acre-feet)	Status
	Based on 100 year allocation approach	
Dawson	716	NNT*
Denver	577	NNT
Arapahoe	239	NT**
Laramie-Fox Hills	386	NT

*NNT=Not nontributary

**NT=Nontributary

The Applicant obtained a plan for augmentation in case no. 2016CW3190, that allows an average diversion of 198 acre-feet annually and 59,400 acre feet total over a 300-year period from Dawson aquifer. According to the decree, the allowed withdrawal from each Dawson aquifer well will be limited to 0.7 acre-feet/year/lot totaling 198 acre-feet/year for the 283 lots. 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. Maximum area to be irrigated on each lot and open space will be limited by the restrictive covenants. 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 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 2004CW098 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.

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 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 three hundred years, the annual demand for the subdivision equals the allowed average annual amount of withdrawal of 198 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.

Applications for on lot well permits, submitted by entities other than the Applicant (PRI #2, LLC) must include evidence that the well permit Applicant has acquired the right to the portion of the water being requested on the application.

In our previous letter we identified four existing stock wells operating under permit nos. 17278-A, 17279, 17280, 75882 and one existing domestic well operating under permit no. 2132, located on the 1417 acre Flying Horse Ranch PUD parcel that appear to be producing water from the not nontributary Dawson aquifer. Well nos. 17278-A, 17279, 75882 and 2132 appear to be located within the 557 acres of Filing 1, therefore note that CRS 37-92-602(3)(b)(III) requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. The applicant was required to provide information if the existing wells will be **plugged and abandoned** or **will be included in the augmentation plan in case no. 2016CW3190**. Since the requested information was not provided we reiterate that the wells constructed under permit nos. 17278-A, 17279, 75882 and 2132, located within the 557 acres must either be **plugged and abandoned** or **included in the augmentation plan in case no. 2016CW3190**, prior to subdivision approval, in order to prevent injury to decreed water rights.

Furthermore, the applicant should be aware that any proposed detention pond for this Planned Development, must meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), Colorado Revised Statutes, to be exempt from 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](#) 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, located at <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>, to meet the notification requirements.

State Engineer’s Office Opinion

Since insufficient information was provided, we cannot comment on the potential for injury to decreed water rights or the adequacy of the proposed water supply under the provisions of Section 30-28-136(1)(h)(I), C.R.S. Prior to further review of the subdivision water supply plan by this office, the Applicant must clarify all the proposed uses for Filing 1, the total water requirements for Filing 1 and if the existing wells mentioned above will be plugged and abandoned or covered under the existing augmentation plan decreed in case no. 2016CW3190 prior to subdivision approval.

Should you or the applicant have any questions, please contact Ioana Comaniciu at (303) 866-3581 x8246.

Sincerely,

A handwritten signature in blue ink that reads "Joanna Williams". The signature is written in a cursive style with a large initial 'J'.

Joanna Williams, P.E.
Water Resource Engineer

Ec: Subdivision File 24421
File for permit nos. 17278-A, 17279, 75882 and 2132