

August 1, 2022

Kylie Bagley
El Paso County Development Services Department
DSDcomments@elpasoco.com

RE: High View Estates Subdivision AKA 6665 Walker Road Minor Subdivision
NW ¼ of the NE ¼, Sec. 18, T11S, R65W, 6th P.M.
Water Division 1, Water District 8

Dear Kylie Bagley,

We have reviewed the additional information received by this office on July 26, 2022 regarding the above referenced referral. The Applicant is proposing to subdivide 40 acres into five lots. This office previously commented on the above referenced referral in a letter dated April 12, 2022, this letter supersedes the previous letter.

Water Supply Demand

According to the submittal the estimated water requirements total 5 acre-feet annually (1.0 acre-feet/lot), for in-house use in 5 residences, irrigation of 1.28 acres of home gardens and lawns, and watering of 10 large domestic animals total.

Source of Water Supply

The proposed source of water is individual on-lot wells, including the existing well currently operated under permit no. 87040-F, producing from the not-nontributary Dawson aquifer that will operate pursuant to the decree and plan for augmentation in Division 1 Water Court case no. 2021CW3119. The plan for augmentation approved in case no. 2021CW3119 allows for an average withdrawal of 5 acre-feet annually from the Dawson aquifer for a maximum of 300 years. According to the decreed augmentation plan 5 acre-feet per year will be withdrawn through five wells, including the existing well currently operated under permit no. 130940 (canceled by permit no. 87040-F) limited to 1 acre-foot per year per well to be used for indoor use, irrigation of lawn and garden and the watering of domestic animals and livestock.

Well permit no. 87040-F was issued on June 1, 2022 pursuant to section 37-90-137(4), C.R.S. to change the use of an existing well constructed under permit no. 130940 (canceled) to withdraw groundwater from the Dawson aquifer to be located on proposed Lot 1, High View Estates Subdivision. The well is permitted to withdraw 1 acre-foot per year for indoor use, irrigation of lawn and garden and the watering of domestic animals.

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 2021CW3119 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 three hundred years, the proposed annual water demand equals the allowed average annual amount of withdrawal of 5 acre-feet per 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 an entity other than the current water right holder (Collin Brones), must include evidence that the applicant has acquired the right to the portion of water being requested on the application.

State Engineer’s Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.

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 existing water commitments and the demands of the proposed subdivision.

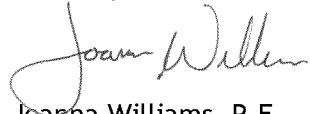
Our opinion is qualified by the following:

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. 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 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 Ailis Thyne of this office at 303-866-3581 x8216.

Sincerely,

A handwritten signature in cursive script that reads "Joanna Williams". The signature is written in black ink and is positioned above the printed name.

Joanna Williams, P.E.
Water Resource Engineer

Ec: Subdivision file: 29145
File permit no. 87040-F