



June 26, 2024

Joe Letke
El Paso County Planning and Community Development
Transmission via EDARP portal

**Re: McLean - Hodgen Subdivision EA2398 MS243
NE1/4 NE1/4 Sec. 28, T11S, R66W of the 6th PM
Water Division 2, Water District 10
CDWR Subdivision #31279**

Dear Mr. Letke:

We have reviewed your June 20, 2024 submittal concerning the above referenced proposal to subdivide 38.68 acres into 2 lots; one of which will be approximately 20.25 acres and the other 18.41 acres. This letter supersedes the letter issued April 3, 2024.

Water Supply Demand

According to the submittal, the proposed uses and estimated water requirements for the four lots are as follows:

- One lot has an existing well, permit no. 223432, which pumps 1 acre-foot annually for household use, irrigation of lawn and gardens, watering of domestic animals and stock, and fire protection. This well remains an exempt domestic well, with 300 acre-feet of Dawson aquifer water reserved for its use, and is not part of the augmentation plan.
- The second lot will utilize 0.2 acre-feet for household use, and the remainder of 0.56 acre-feet for a combination of lawn and garden irrigation and livestock watering to be provided by an individual well diverting from the Dawson aquifer.

Source of Water Supply

The proposed source of water is individual on lot wells producing from the not-nontributary Lower Dawson aquifer that will operate pursuant to the decree and plan for augmentation decreed in case no. 2023CW3041. The allowed average annual amount of withdrawal decreed in case no. 2023CW3014 from the Lower Dawson aquifer is 29.8 acre-feet. The plan for augmentation decreed in case no. 2023CW3014 allows for an average diversion of 9.93 acre-feet annually for a maximum of 300 years.

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 2002CW099 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 Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.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 allowed average annual amount of withdrawal of 29.8 acre-feet/year would be reduced to one third of that amount, or 9.93 acre-feet/year, which is greater than the annual demand for this subdivision. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

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.

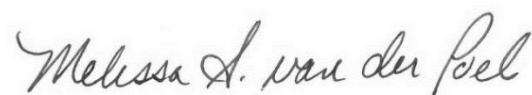
Our opinion is qualified by the following:

The Division 2 Water Court [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 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 have any questions, please contact me at 303-866-3581.

Sincerely,



Melissa A. van der Poel, P.E.
Water Resources Engineer

cc: Subdivision File 31279
Water well permit no. 223432