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September 11, 2026

El Paso County Planning and Community Development Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Re: Kristin Estates Final Plat

El Paso County Planning and Community Development Department:

This firm represents the Upper Black Squirrel Creek Ground Water Management District (the "UBSC District"), a formed and operating ground water management district with the powers enumerated in the Colorado Ground Water Management Act, C.R.S. § 37-90-101 *et seq*. The UBSC District has reviewed the Kristin Estates Final Plant (the "Project") submitted by Land Development Consultants Inc. ("Applicant") for a minor subdivision final plat to create 10 residential lots on 60.004 acres, each lot to be served by an individual well and septic system and ranging between five and nine acres in size. The UBSC District provides the following comments for your review and consideration:

1. <u>Management and Use of Designated Groundwater.</u>

The Colorado Ground Water Management Act of 1965, C.R.S. § 37-90-101 *et seq*, created the Colorado Ground Water Commission ("Commission") and provided for the formation of groundwater management districts within designated basins. Together, the Commission and the local groundwater management district administer designated groundwater in a coordinated manner.

Under the 1965 Act, the Commission, not the water court, has jurisdiction to determine the right to withdraw designated groundwater. The Commission has promulgated rules and regulations, the "Designated Basin Rules," 2 CCR 410-1, for the management and control of designated groundwater and are binding on all users of designated groundwater. Groundwater management districts may also establish rules for the management and control of designated groundwater that are applicable to the withdrawal and use of designated groundwater. For example, within the boundaries of a groundwater management district, the district has the authority to administer designated groundwater priorities, issue curtailment orders, and further limit withdrawals.

The UBSC District is a groundwater management district formed and operating under the Colorado Ground Water Management Act. Pursuant to its statutory authority, the UBSC District has established rules, regulations, and policies, available to view on the UBSC District's website.[1] Applicant should review all UBSC District rules, regulations, and policies.

2. Compliance with UBSC District Rules.

The Project is located within the UBSC District's boundaries; therefore, Applicant must comply with all UBSC District rules and regulations. Specifically, Applicant must comply with:

UBSC District Rule 17. Rule 17(B) imposes the following limit on withdrawals from large capacity wells in subdivisions:

> Withdrawals shall not exceed 0.5 acre-feet per year per single family residence, single condominium unit, apartment unit, single unit with a multiple-dwelling unit, or equivalent within the Subdivision or cluster development supplied by the well. In the event a Subdivision or cluster development is supplied by multiple wells, production from all wells supplying the subdivision or cluster development shall not exceed the product of (the number of single family residences, single condominium units, apartment units, single units within a multiple-dwelling unit or equivalent within the Subdivision)X(.5) acre feet per year. In no event shall production from the well exceed the rate or amount set forth in any determination of water rights issued for the well by the Colorado Ground Water Commission.

Applicant must ensure that any large capacity wells to be drilled as part of the Project satisfy these requirements.

Applicant is responsible for complying with all UBSC District rules and regulations, not just Rule 17.

3. Water and Wastewater Service.

The UBSC District has enacted a policy that "encourages the uses of central (municipal) water and wastewater systems, as opposed to the use of individual wells and septic systems in any proposed subdivision consisting of three or more lots." Similarly, the El Paso County Land Development Code states that "[e]very reasonable effort shall be made to provide a central wastewater system." El Paso Land Dev. Code § 8.4.8(B)(1)(a).

The proliferation of individual septic systems, called Individual Sewage Disposal Systems (ISDS) or Onsite Wastewater Treatment Systems (OWTS), within the UBSC Basin degrades the Basin's alluvial water quality and threatens the already over-appropriated groundwater resources of the Basin. Septic systems are generally ineffective at removing organic nitrogen compounds, volatile organic compounds (solvents, paints, antifreeze, etc.), pharmaceuticals,

[1]UBSC District, *Rules, Regulations and Statement of Policy*, https://upperblacksquirrelcreekwater.com/reg_rules.php.

and personal care products from effluent. The cumulative use of septic systems in a specific region of the aquifer can result in the discharge of hundreds of acre-feet per year of effluent to a localized part of the alluvial aquifer, which may cause attenuation of certain contaminants from the effluent that can then become a source of residual contamination.

For projects intending to utilize individual septic systems, consideration must be given to the cumulative use of septic systems in that area and the location of the septic systems within the alluvial groundwater flow system. This should include an analysis of the depth to groundwater and depth to bedrock, and the degree of subsurface saturation, which influences groundwater flow direction and velocity. In areas with shallow depth to water, the use of septic systems can create near-surface saturated conditions. Similarly, shallow bedrock can prevent septic systems from properly discharging, which can result in near-surface impacts, particularly during rain events. ***Accordingly, individual septic systems should not be used in areas with shallow depth to water or shallow bedrock***.

4. <u>Detention of Surface Flows.</u>

The Project may not capture and detain surface flows within the UBSC Basin unless done so by a proper stormwater detention facility in accordance with Designated Basin Rule 5.11. Surface flows in a designated basin are "designated ground water" under the Groundwater Management Act and are subject to administration by the Ground Water Commission. *In Matter of Water Rights*, 361 P.3d 392, 396–97 (Colo. 2015); *see also* C.R.S. § 37-90-102(1) (stating that designated ground water may only be appropriated in the manner prescribed by the Groundwater Management Act). Accordingly, it is illegal to capture and detain such flows unless done so by a proper storm water detention facility in accordance with Rule 5.11, which includes the following requirements (among several others):

> 5.11.1 A "storm water detention and infiltration facility" means a facility that is operated solely for storm water management and:
>
> A. Is owned or operated by a government entity or is subject to oversight by a governmental entity;
>
> B. Continuously releases or infiltrates at least ninety-seven percent of all of the water from a rainfall event that is **equal to or less than a five-year storm** within seventy-two hours after the end of the rainfall event;
>
> C. Continuously releases or infiltrates all of the water from a rainfall event **greater than a five-year storm** as quickly as practicable, but in all cases releases or infiltrates at least ninety-nine percent of all of the water from the rainfall event within one hundred twenty hours after the end of the rainfall event, and:
>
> D. Operates passively and does not subject the storm water runoff to any active treatment process.

Applicant must ensure that the detention pond it has proposed to construct satisfies these and all other requirements of Designated Basin Rule 5.11.

5. <u>Denver Basin Groundwater.</u>

Denver Basin groundwater is a non-renewable source, and it is well known that the Denver Basin water supplies are diminishing and may not be available in the future. Accordingly, Applicant should seek renewable sources of water and minimize reliance on Denver Basin groundwater to supply the Project.

The UBSC District reserves the right to provide additional comments at a later date founded upon information not readily ascertainable from the above-referenced application.

Respectfully,

/s/ Trevor I. Klein
Trevor I. Klein
for
TROUT RALEY