



December 27, 2023

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

**Re: Nabulsi-Agushaban Subdivision, EA21214 and MS2211
SE ¼ SE ¼ Sec. 19, T12S, R65W of the 6th PM
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 31116**

Dear Mr. Letke;

We have reviewed your November 27, 2023 submittal concerning the above referenced proposal to subdivide 24.8 acres into 4 lots ranging in size from approximately 5 acres to 9.3 acres.

Water Supply Demand

According to the submittal, the proposed uses and estimated water requirements for the four lots are 0.57 acre-feet of water per lot, estimated as 0.26 acre-feet per single family dwelling, and allocating the remaining 0.31 acre-feet per lot to other approved uses, which are lawn and garden irrigation at 0.26 acre-foot per acre of lawn and garden, and the watering of domestic animals and stock at 0.05 acre-feet per 4 large animals.

Source of Water Supply

The proposed source of water is individual on lot wells producing from the not-nontributary Dawson aquifer that will operate pursuant to the decree and plan for augmentation in case no. 2022CW3020. The allowed average annual amount of withdrawal decreed in case no. 2022CW3020 from the Dawson aquifer is 9.5 acre-feet. The plan for augmentation decreed in case no. 2022CW3020 allows for an average diversion of 3.2 acre-feet annually for a maximum of 300 years. The proposed uses are allowed by the decree.

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 2022CW3020 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 Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

Our records also indicate that several exempt wells may currently exist within the proposed development. Note that Section 37-92-602(3)(b)(III), CRS, requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. Therefore, the existing exempt wells must be included in an augmentation plan, or must be plugged and abandoned since the provisions of CRS 37-92-602 which allowed for issuance of the well permits will no longer apply.



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 9.5 acre-feet/year would be reduced to one third of that amount, or 3.2 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) [(for municipal supply, add:) and Section 30-28-136(1)(h)(II)], 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 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 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.

Additional Comments

The application materials indicate that the project will collect storm flows in a detention pond. The applicant should be aware that, unless the structure can meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to 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.

Should you have any questions, please contact me at 303-866-3581

Sincerely,

A handwritten signature in cursive script that reads "Melissa A. van der Poel".

Melissa A. van der Poel, P.E.
Team Leader, Team 237

cc: Subdivision File 31116
Water well permit nos. 85841-A, 137196