

Security Water and Sanitation Districts / Enterprises

231 SECURITY BLVD. • COLORADO SPRINGS, COLORADO 80911
TELEPHONE 719-392-3475 • FAX 719-390-7252
www.securitywsd.com

December 4, 2018



Mr. Craig Dossey, Director
El Paso County Planning and Community Development
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Security Water District - Water Supply Quality Mitigation Project
Consideration of Exemption to El Paso County "...1041 Regulation"

Dear Craig:

This is a follow-up to our discussions at the Pre-Application meeting of November 19, 2018 regarding the Security Water District (SWD) and the water quality mitigation project being planned, designed and constructed by the Air Force Civil Engineering Center (AFCEC) and the U.S. Army Corps of Engineers (USACE). GMS, Inc. had previously forwarded you a copy of Technical Memorandum No. 4, prepared under contract with the USACE, defining a preferred alternative for dealing with mitigation of water quality issues in the Widefield Aquifer water supply of the Security Water District.

As was indicated by the Planning and Community Development staff, it is the general initial consensus that this project would be subject to the El Paso County (EPC) Land Development Code Regulation regarding, "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County." The District would appreciate your consideration of granting an exemption for this project to the requirements of this so called, "...1041 Regulation."

The Regulation provides for exemptions at Section 1.105. The following is a brief outline of our comments regarding the provisions for exemption under this Regulation. Each of the provisions for exemption are addressed separately.

Exemption Provision	Response
X 1. The specific development or activity is authorized by a valid building Permit issued by the Pikes Peak Regional Building Department on behalf of the County;	A valid building permit for the facilities to be constructed in this water quality mitigation effort has not been issued by the Pikes Peak Regional Building Department.
X 2. The specific development or activity was directly approved by the electorate of the State or of the county; provided that approval by the electorate of any bond	The activities related to this water quality mitigation project have not been approved by the electorate of the State or County.

Exemption Provision	Response
<p>issue shall not, in and of itself be construed to be an approval of the specific development or activity;</p>	
<p>X 3. The specific development or activity is to be on land which has been finally approved, with or without conditions, for planned unit development or for a use other than a subdivision substantially the same as a planned unit development, and a Site Development Plan has been approved by El Paso County prior to the effective date of these Regulations for the development or activity which would otherwise be subject to these Regulations;</p>	<p>The water quality mitigation project will not be on land which has been finally approved as a planned unit development. As of this date, a Site Development Plan has not been prepared and submitted to EPC for the water quality mitigation project.</p>
<p>X 4. The specific development or activity is to be on land which has been zoned by the County expressly and specifically for a use by right for the use contemplated by the development or activity and Site Development Plan has been approved for the specific development or activity which would otherwise be subject to these Regulations;</p>	<p>It is our interpretation of the El Paso County Land Development Code and zoning regulation that the activities related to this water quality mitigation project can be conducted on the land proposed for this use in accordance with the County Regulations. The quasi-governmental entity, the Security Water District, can provide for its utility services on land either owned by the District or provided by appropriate easement and rights-of-way. As indicated above, a Site Development Plan for the activities to be constructed by this water quality mitigation project has not been prepared, submitted and approved for this activity as of this date.</p>
<p>X 5. These Regulations shall not apply to the division, subdivision or resubdivision of land, which complies with the Land Development Code, the El Paso County Engineering Criteria Manual and the City of Colorado Springs and the El Paso County Drainage Criteria Manual, as long as any exceedance of the thresholds in Section 6.105(3) are addressed in the land use approval process.</p>	<p>The activities associated with the water quality mitigation project will not be involved in the division, subdivision or resubdivision of land.</p>
<p>6. The day-to-day operations of an existing project or facility, or a minor change in the operation of an existing project or facility, including retrofitting or updating technology, so long as the change in operation does not constitute a material change and does not cause negative impacts different from that of the existing facility or project or otherwise exacerbate existing impacts. The determination of</p>	<p>This mitigation project to address deficient water quality for domestic use purposes in the Widefield Aquifer does require retrofitting or updating of technology. At the present time, the existing treatment technology has been applied at each of the well sites, i.e., points of diversion. The new updating of technology has been deemed to be most cost efficient when centralized and not conducted at each point of diversion. Thus, the activities to mitigate the water quality issue in the Widefield Aquifer does include</p>

Exemption Provision	Response
<p>minor change, material change, and negative or exacerbating impacts shall be made by the Development Services Department Director.</p>	<p>gathering of raw water from the existing diversion points and conveyance to a central location where the updated water treatment technology will be applied.</p> <p>The water resources owned and utilized by the District will not be applied to any greater service area than that which has existed for many years. This project does not provide for an expanded capacity over that which exists prior to implementation of the water quality mitigation project. It is the District's opinion that the water quality mitigation project does not cause permanent negative impacts different than that of the existing facility, and does not exacerbate existing impacts. There will be temporary impacts associated with construction activities which may include some removal and replacement of EPC roadway surfacing. However, that is a temporary impact only.</p>
<p>7. These Regulations shall not apply to any use or structure otherwise lawfully existing on the date the area or activity is designated or subjected to these Regulations, provided, when such a nonconforming use shall be discontinued for one year or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the County Assessor's assessed value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to these Regulations. Additionally, expansion of a legal nonconforming use or structure shall require a Permit.</p>	<p>The activities associated with this water quality mitigation project will address the continued use of land and structures, i.e. wells and water resources that existed on the date of the adoption of the EPC 1041 Regulations. It is recognized that there will be new underground water pipelines and a facility where water quality mitigation activities will be constructed within an enclosed structure which did not exist at the date of the adoption of the 1041 Regulations. Because the water resource utilized by the District will not be expanded in its use, its area of use will not be expanded, nor will the capacity be expanded. The continued use of the existing well structures and related infrastructure are not subject to the 1041 permanent requirements.</p>

We are also making reference to Chapter 4 of the, "Guidelines and Regulations..." which specifically addresses *Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extensions of Existing Domestic Water and Sewage Treatment Systems*. Article 4.102 addresses the purpose and intent of these, "Guidelines and Regulations..." We have examined each of these and find that there are other mechanisms to fulfill the purpose and intent of these, "Guidelines and Regulations..." Please review our comments following each of the recitations of the purpose and intent of this Article 4.102.

1. **Purpose and Intent:** To ensure that new domestic water and sewage treatment systems and/or major extensions of the same are constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage systems of adjacent communities.

SWD Statement and/or Proposal: *The water quality mitigation facilities to be constructed for the SWD basically replace and supplement the existing water treatment systems for the District's local water resources. The studies and evaluations accomplished on behalf of the SWD have fully evaluated the, "...proper utilization of existing treatment plants..." and find that the proposed water quality mitigation facility is the most appropriate for the District's system. As previously indicated, the water quality mitigation facilities do not expand the District's service area nor the capacity of the District to supply municipal water to its constituents. There have been interconnections with adjacent communities which will remain as they presently exist; remaining in a configuration that is the most efficient from a technical, managerial, institutional and economic standpoint.*

- 2. Purpose and Intent:** To ensure that site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are conducted in such a manner as to minimize environmental impacts associated with such development.

SWD Statement and/or Proposal: *The water quality mitigation facility which will be built on behalf of the District will utilize existing water pipeline corridors and/or other areas presently utilized for the District's water system infrastructure, including land presently owned by the District. The District agrees that a Site Development Plan in accordance with the El Paso County Land Development Code is appropriate for the water quality mitigation facilities that will be built. The Planning and Community Development department can assess and comment on environmental impacts, both short term and long term, it sees in the Site Development Plan process. The District proposes that this be the primary tool by which the Planning and Community Development department can be assured that there are no unnecessary short term and long term environmental impacts to be mitigated in addition to that ordinarily included in the basic scope of the work to be constructed.*

- 3. Purpose and Intent:** To ensure that site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities.

SWD Statement and/or Proposal: *The SWD is fully aware of the economic impact of implementation of the water quality mitigation facilities that will be constructed to address the water quality issues in the Widefield Aquifer. The District is satisfied that there are no redundant nor unnecessary facilities that will be constructed for use by the District. The District has no direct financial exposure for the design and construction of the water quality mitigation facilities and thus, there will be no direct impact on the District's constituents for construction of these facilities. The District is continuing to work through certain agreements with the responsible agencies for future funding of operation, maintenance, renewals and replacements.*

- 4. Purpose and Intent:** To ensure that the impacts to County roads of site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are adequately mitigated.

Mr. Craig Dossey, Director
December 4, 2018
Page 5

SWD Statement and/or Proposal: *The District proposes that the existing El Paso County permitting requirements for work in County road rights-of-way will fulfill the purpose and intent of this section of the, "Guidelines and Regulations..." There is no recognizable benefit to going through the 1041 submittal when the impacts to County roads are fully addressed by the permitting and the existing specifications of the EPC Department of Transportation. It is noted that out of the central pipeline in the raw water gathering system having a total length of approximately 23,450 feet, approximately 4,980 feet or 21.2 % may be located in existing EPC road rights-of-way. The designer and builder are now endeavoring to further reduce the work which may impact existing County roads to avoid degradation and detour fees and general disruption to the travelling public.*

As presented in this letter, we believe that there are existing and alternative means and methods to fulfill the purpose and intent of the, "Guidelines and Regulations..." referred to as the, "1041 Regulations." Consequently, the Security Water District respectfully requests that a determination be made that the water quality mitigation project does not require a permit to be issued by EPC under the terms and conditions of the "...Regulations for Areas and Activities of State Interest of El Paso County." Because this project is extremely time sensitive, we would request that your determination be made as soon as possible.

As we have indicated to you, the contractor retained by the USACE to accomplish this work on behalf of the United States Air Force is proceeding with planning, design and preparation of construction documents in order to attain the time schedule required for this project. They may be in contact with your office to further determine permitting and interim approvals, i.e. Site Development Plan and/or location approval appurtenant to the project. The primary contact that we anticipate may be in contact with you is Mr. Bill Wemmert, P.E., with AECOM/URS.

In the meantime, should you have any questions or desire additional information that the District may provide, please contact us at your very earliest convenience.

Sincerely,



Roy E. Heald, General Manager
Security Water District

ec: Mr. Bill Wemmert, P.E., AECOM/URS, bill.wemmert@aecom.com
Mr. Roger J. Sams, P.E., GMS, Inc., rjsams@gmsengr.com
Mr. Steve Monson, Esq., Monson, Cummins & Shohet, LLC, stm@cowaterlaw.com
Ms. Sharon Stone, AFCEC, Sharon.Stone@us.af.mil
Mr. Doug Simpleman, USACE, douglas.p.simpleman@usace.army.mil