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SF-24-29 Lazy Y and Rocking J Subdivision

Reviewed by: Lori L. Seago, Senior County Attorney
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WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal for approval of the Lazy Y and Rocking J, a minor subdivision application by Longhorn Acres Land & Cattle LLC (“Applicant”) to subdivide 36 acres into 2 lots and 1 tract. Lot 1 will consist of 90 full hookup RV sites, 10 dry sites, 3 bathhouses with restroom and showers, and a common area with bathrooms and washer/dryer. Lot 2 consists of a single-family residence. There is no development planned for Tract A. 5.28 acres of the property are zoned RR-5 (Residential Rural) and the remainder is zoned RVP (Recreational Vehicle Park).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the water demand for the subdivision is 4.50 acre-feet/year, comprised of one household at 0.26 acre-feet/year, 1.20 acre-feet/year for irrigation of 0.47 acres, and 3.04 acre-feet/year for RV sites, bathhouses and common areas. Based on this total demand, Applicant must be able to provide a supply of 1,350 acre-feet of water (4.50 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from up to two (2) wells. Lot 1 is expected to utilize Well Permit No. 89137-F, withdrawing from the Denver aquifer as provided in Determination of Water Right No. 4632-BD (“Denver Determination”). The Denver Determination allocated 1,290 acre-feet (12.9 acre-feet/year for 100 years, or 4.3 acre-feet/year for 300 years) of not-nontributary Denver aquifer water to the property to be used for domestic in-house; irrigation of lawns and gardens, including greenhouse; domestic animal watering; commercial uses, including in an RV park facility; firefighting; piscatorial; and replacement; either directly or after storage. At least 4% of the amount of Underlying Groundwater withdrawn annually must be returned to the alluvial aquifer in the vicinity of the permitted point or points of withdrawal.

Lot 2 is expected to utilize Well Permit No. 88850-F, withdrawing from the Dawson aquifer as provided in Determination of Water Right no. 4633-BD (“Dawson Determination”). The Dawson Determination allocated 309 acre-feet (3.09 acre-feet/year for 100 years, or 1.03 acre-feet/year for

300 years) of Dawson aquifer water to the property to be used for domestic in-house; irrigation of lawns and gardens, including greenhouse; domestic animal watering; commercial uses, including in an RV park facility; firefighting; piscatorial; and replacement; either directly or after storage.

State Engineer's Office Opinion

4. In a letter dated January 22, 2026, the State Engineer stated that “[t]he proposed water supply for Lot 1 is well permit no. 89137-F...pursuant to Determination of Water Right no. 4632.BD to withdraw 12.9 acre-feet per year from the Not-Nontributary (4% replacement) Denver aquifer for commercial use, including in an RV park facility and irrigation.” The State Engineer further states that “[t]he proposed source of water supply for Lot 2 is an existing well. . .well permit no. 88850-F. Well permit no. 88850-F was issued pursuant to Determination of Water Right no. 4633-BD to withdraw 3.09 acre-feet per year from the nontributary Dawson aquifer for domestic in-house use. . .”

Finally, the State Engineer stated that, “... 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.”

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the Lazy Y and Rocking J Subdivision is 4.50 acre-feet per year for a total demand of 1,350 acre-feet for the subdivision for 300 years. The well on Lot 1 (89137-F) in the Denver aquifer is limited to an annual withdrawal of 4.3 acre-feet per year which is more than the amount requested of 4.24 acre-feet per year. The well on Lot 2 (88850-F) is limited to an annual withdrawal of 1.03 acre-feet per year, and the demand is 0.26 acre-feet per year.

Based on the water demand of 4.50 acre-feet/year for the Lazy Y and Rocking J Subdivision and the Determinations permitting withdrawals in excess of that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Lazy Y and Rocking J Subdivision.

6. The water quality requirements of Section 8.4.7.B.10.g. of the El Paso County Land Development Code must be satisfied. **El Paso County Public Health shall provide a recommendation as to the sufficiency of water quality.**

7. Basis. The County Attorney's Office reviewed the following documents in preparing this review: a Water Resources Report dated January 30, 2026, the Water Supply Information Summary, the State Engineer's Office Opinion dated January 22, 2026, Determination of Water Right Nos. 4632-BD and 4633-BD entered on January 18, 2024. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of the Colorado Ground Water Commission Determination of Water Right Nos. 4632-BD and 4633-BD, specifically, that water withdrawn from the Dawson aquifer shall not exceed 1.03 annual acre-feet for 300 years, and water withdrawn from the Denver aquifer shall not exceed 4.3 annual acre-feet for 300 years. At least four percent (4%) of the amount of Underlying groundwater withdrawn annually from the Denver aquifer must be returned to the alluvial aquifer in the vicinity of the permitted point(s) of withdrawal.

B. For minor subdivisions such as this, Applicant may elect to solely rely on the covenant provisions required below and forego creation of an HOA.

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of Determination of Water Right Nos. 4632-BD and 4633-BD, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be recorded.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve at least 78 acre-feet of not-nontributary Dawson aquifer water pursuant to Determination of Water Right No. 4633-BD and 1,272 acre-feet of Denver aquifer water pursuant to Determination of Water Right No. 4632-BD to satisfy El Paso County's 300-year water supply requirement for the two (2) lots of the Lazy Y and Rocking J Subdivision. The Covenants shall further identify that 1,272 acre-feet (4.24 acre-feet/year) of Denver aquifer water is allocated to Lot 1 with existing well permit no. 89137-F and 78 acre-feet (0.26 acre-feet/year) of Dawson aquifer water is allocated to Lot 2 with existing well permit no. 88850-F. Said reservations shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply.

2) Address future lot conveyances. The following or similar language shall be included in the Covenants to address future conveyances of the lots subsequent to the initial conveyance made by Applicant/Declarant:

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Determination of Water Right Nos. 4632-BD and 4633-BD and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not

be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

3) Advise of monitoring requirements. The Covenants shall advise the future lot owners of this subdivision and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from existing and wells in the Dawson and Denver aquifers.

4) Address amendments to the covenants. The Covenants shall address amendments using the following or similar language:

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Lazy Y and Rocking J Subdivision pursuant to Determination of Water Right Nos. 4632-BD and 4633-BD. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to the Colorado Ground Water Commission approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such determination.”

5) Address termination of the covenants. The Covenants shall address termination using the following or similar language:

“These Covenants shall not terminate unless the requirements of Determination of Water Right Nos. 4632-BD and 4633-BD are also terminated by the Colorado Ground Water Commission and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Denver aquifer water in the decreed amount of 1,272 acre-feet for Lot 1 and Dawson aquifer water in the decreed amount of 78 acre-feet for Lot 2. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Dawson and Denver aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson and Denver aquifers underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson and Denver aquifers): "These water rights conveyed are intended to provide a 300-year water supply for each of the lots of the Lazy Y and Rocking J Subdivision. The water rights so conveyed shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney's Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat. Said Declaration shall cross-reference Determination of Water Right Nos. 4632-BD and 4633-BD and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including but not limited to Determination of Water Right Nos. 4632-BD and 4633-BD, agreements, assignments, and warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

H. Applications for well permits submitted by persons other than the Applicant must include evidence that the permittee has acquired the right to the portion of the water being requested.

I. The following plat note shall be added that addresses the State Engineer's admonition to advise landowners of potential limited water supplies in the Denver Basin:

"Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicant and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years used for allocation indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply."

cc: Joe Letke, Project Manager, Planner