



July 25, 2022

Ryan Howser, Project Manager
El Paso County Community & Development Services
Transmitted via the EPC EDARP Portal: <https://epcdevplanreview.com>

Re: Falcon Highlands Filing No. 3
Case No. SKP214, Planned Unit Development and Preliminary Plan
Part of Sec. 12, Twp. 13S, Rng. 65W, 6th P.M.
Upper Black Squirrel Creek Designated Basin
Water Division 2, Water District 10

Dear Ryan Howser:

We have reviewed the above-referenced proposal for the subdivision of 125.56 acres into 380 lots and 10 tracts known as Falcon Highlands Filing No. 3. The land within Filing No. 3 will be developed into single-family residential lots, trail corridors, open space, park space, and for stormwater facilities in three phases.

Falcon Highlands Filing No. 3 is part of the Falcon Highlands Sketch Plan, originally approved in 2004. The sketch plan encompassed 240 acres, most of which has been developed into single-family residential in Filing Nos. 1 and 2. This office previously provided comments on the sketch plan on February 10, 2011 and on the amendment to the sketch plan on November 10, 2021 (case no. SKP214 which was approved by the county this year).

According to the application letter of intent, the applicant is requesting a finding of sufficiency of water supply for the first 50 lots. However, since 380 lots will be developed in this filing and this application is for the development of the entire filing, this office will consider the water requirements for all 380 lots in its review.

Water Supply Demand

According to the referral materials, the estimated water demand for the 50 lots is 13,391 gallons per day or 15 acre-feet per year [50 single-family equivalents (SFEs)¹], and the water demand for all 380 lots is 101,772 gallons per day or 114 acre-feet per year [380 SFEs] for single-family residential use.

Source of Water Supply

The proposed water supply is service provided by the Falcon Highlands Metropolitan District (“District”). A letter dated April 27, 2022 from the District states that the Falcon Highlands Filing No. 3 phases are: Phase I (55 lots), Phase II (188 lots), Phase III (113 lots), and Phase IV (24 lots). This is inconsistent with the application which states Phase I will create only 50 lots. The letter further states that Filing No. 3 is within its boundaries and is eligible to receive water service, but that the District currently does not have the capacity to meet the water demand of the entire filing and does not guarantee that such supply can be obtained. The letter only commits to providing service for 50 SFEs. Prior to further review, the applicant must clarify the number of lots that will be developed in Phase I and further provide a letter from the District committing to serve all lots within the subdivision.

¹ The applicant is using a conversion rate is 0.30 acre-feet per year per SFE based on current use data from the Falcon Highlands Metropolitan District.



The April 27, 2022 District letter states that **the District currently has an adequate supply to supply 710 SFEs and is currently committed to serve 450 SFEs, therefore the uncommitted supply is adequate to serve 260 SFEs.** The District is seeking additional water rights to meet its commitments, including the development of Arapahoe Well No. 2 in 2023.

According to the April 2022 Falcon Highlands Metropolitan District Report prepared by JDS-Hydro Consultants Inc. ("Report"), the District owns and/or controls various Determinations of Water Rights water court decrees, summarized in Table 3.2 of the Report and as follows: nontributary and not-nontributary groundwater allocated under Determination of Water Right nos. 141-BD, 142-BD, and 143-BD; nontributary groundwater decreed in Division 2 Water Court case nos. 83CW134 and 01CW065; and not-nontributary groundwater decreed in case nos. 83CW133 (augmented in case no. 06CW102) and 83CW135. The District has constructed wells under the following permit nos.: 57949-F (Determination of Water Right no. 141-BD), 57950-F (Determination of Water Right no. 142-BD), and 66364-F (Div. 2 Case No. 83CW134). The District did not provide information regarding its ownership or control of the groundwater rights decreed in Division 2 Water Court case nos. 83CW133, 83CW134 or 83CW135 which must be provided upon further review.

According to the Report, "actual metered use over the last two years is an average of 0.2955 AF/SFE", but that for planning purposes the water requirement per SFE was assumed to be 0.3 AF/SFE; however this amount is less than the water requirement in 2020 which was reported to be 0.302 AF/SFE. A water requirement of 0.3 AF/SFE would result in a water commitment of 135 acre-feet per year for the 450 SFEs that the District is currently committed to serve and a water. Therefore the water required to meet the current commitment of 450 SFEs and the 380 SFEs proposed for this development would be 249 AF/yr.

According to the Report, the total supply available to the District based on a 100-year supply is 640.91 acre-feet per year or based on a 300-year water supply is 213.16 acre-feet per year (710 SFEs), which account for the 2% relinquishment requirement for the nontributary Arapahoe aquifer decreed in case no. 01CW065. These amounts do not account for the 2% relinquishment requirement for the other nontributary sources outside of designated basins or the 4% relinquishment requirement for the not-nontributary Denver aquifer inside of designated basins allocated under 143-BD.

According to information available to our office, **the total supply available to the District based on a 100-year supply is 641.6 acre-feet per year or based on a 300-year water supply is 202.2 acre-feet per year²,** which amounts do not account for the relinquishment requirements. Accounting for the relinquishment requirements which sum to 15.9 acre-feet per year, **our office calculates that the total supply available to the District based on a 100-year supply is 625.7 acre-feet/year,** which is not consistent with the amounts shown on Table 3.2 of the Report. Additionally, the water demands from current commitments and Filing No. 3 exceed the amount of firm water supply available to the District.

Prior to further review of the subdivision water supply plan, the District must provide a complete summary of the water rights owned and controlled by the District, accounting for relinquishment requirements, and evidence of that ownership or control. Further, the District must provide evidence that they have sufficient supplies to serve their existing commitments and their future commitments, including this subdivision, while meeting El Paso County's 300-year water supply requirement.

Lastly, a review of our records shows well permit no. 272880 may be located on the land area subject of this subdivision plan. Permit no. 272880 was issued March 6, 2007 for the historic domestic use of a well first put to beneficial use December 9, 1955 located in Sec. 12, Twp. 13S, Rng. 65W (previously permitted under 233-WCB). Upon approval of Falcon Highlands Filing No. 3, the well must either be plugged and abandoned or re-permitted as a large-capacity well pursuant to Determination of Water Right No. 143-BD.

² This amount does not include the water available under the 06CW102 augmentation plan since the plan is only approved for a period of 100 years.

Prior to further review, the applicant must clarify whether well permit no. 272880 is located on the subject land, and if so if the well will be plugged and abandoned or re-permitted as a large-capacity well pursuant to Determination of Water Right No. 143-BD.

State Engineer's Office Opinion

Based on the above and pursuant to section 30-28-136(1)(h)(I) and section 30-28-136(1)(h)(II), C.R.S., the State Engineer's Office has not received enough information to render an opinion regarding the potential for causing material injury to decreed water rights, or the adequacy of the proposed water supply. **Prior to further review of the subdivision water supply plan the following information is required.**

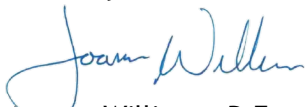
1. The applicant must clarify the number of lots that will be developed in Phase I and further provide a letter from the District committing to serve all lots within the subdivision.
2. The applicant must clarify whether well permit no. 272880 is located on the subject land, and if so if the well will be plugged and abandoned or re-permitted as a large-capacity well pursuant to Determination of Water Right No. 143-BD.
3. The District must provide a complete summary of the water rights owned and controlled by the District, accounting for relinquishment requirements, and evidence of that ownership or control. Further, the District must provide evidence that they have sufficient supplies to serve their existing commitments and their future commitments, including this subdivision, while meeting El Paso County's 300-year water supply requirement.
4. The District's stated current commitments do not match the information we have on file for the District, therefore the District should clarify which subdivisions they are currently committed to supplying and the water demand for each subdivision.

Additional Comments

According to the submitted material, stormwater detention structure(s) will be developed on the site. The applicant should be aware that, unless the structure can meet the requirements of a "storm water detention and infiltration facility" as defined in Designated Basin Rule 5.11, the structure may be subject to administration by this office. The applicant should review Rule 5.11 to determine whether the structure meets the requirements of the Rule and ensure any notification requirement is met.

If you or the Applicant have any questions, please contact Wenli Dickinson at (303) 866-3581 x8206 or at Wenli.Dickinson@state.co.us.

Sincerely,



Joanna Williams, P.E.
Water Resource Engineer

Ec: Referral No. 28927
Well permit no. 272880 file
Upper Black Squirrel Ground Water Management District