

# EL PASO COUNTY



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September 25, 2017

PUDSP-16-003 Lorson Ranch East  
Planned Unit Development Plan/Preliminary Plan (PUDSP)

Reviewed by: Cole Emmons, Senior Assistant County Attorney  
Edi Anderson, Paralegal

*M.C.E.*

## FINDINGS AND CONCLUSIONS:

1. This is a Planned Unit Development Plan and Preliminary Plan (PUDSP) proposal by Lorson LLC ("Applicant"), to subdivide an approximately 274.585 acre parcel into 826 single-family lots, plus landscaping and open space. Applicant has changed the number of lots in this proposed subdivision several times.

2. The Applicant has provided for the source of water to derive from the Widefield Water and Sanitation District ("District"). Pursuant to the Water Supply Information Summary for Lorson Ranch East, the applicant estimates its annual water needs to serve household use for the entire subdivision at 295.7 acre-feet. This total amount is based on the District's 0.35 annual acre-feet per single-family equivalent totaling 289.1 acre-feet (0.35 acre-feet x 826 single family lots = 289.1 acre-feet), plus a total of 6.6 acre-feet for irrigation of active landscaping within the open space. Based on these figures, the Applicant must be able to provide a supply of 88,710 acre-feet of water (295.7 acre-feet/year x 300 years) to meet the County's 300 year water supply requirement. Since the District's water is considered annually renewable (see below), it is considered to already have a minimum life of 300 years, and therefore, does not have to reserve this total quantity of water.

3. Under Section 8.4.7.C.1., LDC, "[w]ater provided from renewable ground water sources is considered to be annually renewable and, therefore, is considered to have a minimum life of three hundred (300) years." Given previous representations by the District that the general well locations place most of the wells approximately within one to two miles of either Fountain Creek or Jimmy Camp Creek, given the augmentation supply of transmountain Frying Pan/Arkansas Project water which is a

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tributary renewable source, and given the representations of JDS Hydro, the District's Engineer, that "the system does not rely on any non-renewable water sources," it appears the proposed water supply is an annual renewable source and falls within the provisions of Section 8.4.7.C.1., and thus the proposed supply is considered to have a minimum life of 300 years.

4. The District's General Manager provided a letter of commitment for the subdivision dated July 18, 2017, in which the District committed to providing water service to the subdivision of 826 residential lots. The District's General Manager stated "The water commitment is for 826 Residential Lots plus 2.2 acres of active landscaping within open space and common areas – (845 total SFE) and 295.7 acre-feet." The District further states that these "lands are within the designated Widefield Service Area. This is a preliminary plan commitment."

5. In a letter dated August 7, 2017, the State Engineer acknowledged receipt of the application to subdivide the Lorson Ranch East subdivision of 274.59 acres into 828<sup>1</sup> single-family residential lots and open space. The Engineer referenced a previous proposal for the subdivision and noted that the current proposal changed the total acreage of the proposal and reduced the number of lots; therefore, the State Engineer referred to its previous findings dated November 15, 2016.

In the State Engineer's letter dated November 15, 2016, the State Engineer reviewed the proposal of 838 single-family lots plus 48.95 acres of open space on 225.76 acres of land. The Water Supply Information Summary estimated a demand of 293.32 acre-feet/year for 838 lots (0.35 acre-feet per lot per year). The State Engineer noted that the "proposal does not clearly define the amount of lawn and garden irrigation anticipated for each lot. The subdivision also includes 0.706 acres of irrigated median landscaping which is anticipated to require 1.75 acre-feet/year. The total subdivision estimated water demand is 295.07 acre-feet." The State Engineer stated that according to their records, "it appears Widefield has sufficient water resources to serve the proposed development" and further, "pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply is adequate and can be provided without causing injury to decreed water rights."

6. The State Engineer did not provide any figures for the District's water supply and demand, but the Water Demand and Wastewater Disposal Report dated June 30, 2017, indicates that the District has "a current developed physical water supply of 5246 annual ac-ft of water per year and the current demand is 2248 ac-ft per year which is roughly 43% of the existing physical supply."

7. PFCs. On May 19, 2016, the Environmental Protection Agency ("EPA") announced that it lowered the health advisory levels ("HAL") for perfluorinated

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<sup>1</sup> The actual number of lots in the proposal is 826, plus open space.

compounds (“PFC”), to 70 parts per trillion. One of the three local water providers whose PFC levels now exceed the EPA’s HAL is Widefield Water and Sanitation District. There has been much coverage in the local press and much public concern expressed over PFCs recently. The District Manager provided a letter dated July 29, 2016 (see **Exhibit 1** attached hereto), in which he explains that the PFCs are unregulated and unenforceable, and the new HAL “. . . in no way impacts or reduces Widefield Water and Sanitation District’s water supply quantity or our ability to serve water to our current or future customers.”

8. Analysis: As indicated in the Water and Wastewater Disposal Report dated June 30, 2017, the District’s water supply is based on surface water rights, renewable groundwater, and a mix of various sources. The current developed physical supply is 5,246 acre-feet and the three year average of actual use is 2,248 acre-feet, which would leave a surplus of approximately 2,998 acre-feet based on these figures. With a proposed annual demand of 295.7 acre-feet for the 826 single-family lots and including irrigation of open space, and based on the current commitments of the District and the available water supply, it appears the proposed water supply will be sufficient for the Lorson Ranch East subdivision.

9. Section 8.4.7(B)(10)(g), of the El Paso County Land Development Code allows for the presumption of acceptable water quality for projects such as this where water is supplied by an existing Community Water Supply operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

10. Therefore, based upon the finding of sufficiency and no injury by the State Engineer, the District’s commitment, the District’s explanation that PFCs will not affect the quantity of the District’s water supply, and based on the requirements below, the County Attorney’s Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability. The Health Department may need to advise regarding any concerns regarding water quality sufficiency.

## **REQUIREMENTS:**

A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, limitations, and specifications set by the District.

cc: Kari Parsons, Project Manager, Planner II



37 Widefield Boulevard, Colorado Springs, Colorado 80911

RECEIVED

AUG 01 2016

El Paso County  
Attorney's Office

July 29, 2016

Cole Emmons  
County Attorney's Office  
27 East Vermijo Avenue  
Colorado Springs, Colorado 80903

**Re: Perfluorinated Compounds**

Dear Mr. Emmons:

Due to all of the negative media pertaining to PFC's in the water, I wanted to write to you to explain what has occurred and to reiterate in writing that the new health advisory level for PFC's in no way impacts or reduces Widefield Water and Sanitation District's water supply quantity or our ability to serve water to our current or future customers.

On May 19, 2016, the Environmental Protection Agency (EPA) announced it lowered the health advisory levels (HAL's) for both PFOS and PFOA to 70 parts per trillion. In addition, the Colorado Department of Public Health and Environment (CDPHE) decided to include PFHpA into the 70 parts per trillion combined level. By adding three of the PFC's together and lowering the level, the wells in the Widefield aquifer do not meet the new Health Advisory Level. Prior to May 19, 2016, Widefield Water and Sanitation District's well water was below the former Health Advisory Level for PFC's. PFC's are unregulated and unenforceable

As an unregulated contaminant the EPA nor CDPHE requires public water suppliers to do anything about exceeding the health advisory level for PFC's other than notifying customers that the water may at times exceed the new HAL. WWSD can legally operate all of our wells without providing any form of treatment. Although we are not required by regulations to treat for or remove PFC's from the water, WWSD plans on designing and building a treatment plant(s) to remove PFC's in order to restore and maintain consumer confidence. We are also currently working with the Air Force, who has authorized funds to help us mitigate the PFC concerns, as it is suspected that the Air Force's use of firefighting foams may have contributed to, or caused the PFC contamination.

Widefield Water and Sanitation District water quantity or ability to deliver water is not at all impacted by the PFC issue in any way. In addition, we plan on having it mitigated before next year's high summer demand period.

Sincerely,

  
Steve Wilson, District Manager

