



COLORADO

Division of Water Resources

Department of Natural Resources

1313 Sherman Street, Room 821
Denver, CO 80203

December 14, 2018

Gabe Sevigny
El Paso County Development Services Department
DSDcomments@elpasoco.com

RE: Mountains To View Estates Subdivision (a.k.a. McConnell Minor Subdivision)
SE ¼ of the NE ¼ of Sec. 24, T12S, R63W, 6th P.M.
Water Division 2, Water District 10
Upper Black Squirrel Creek Designated Basin

Dear Mr. Sevigny:

We have reviewed your December 5, 2018 submittal concerning the above referenced proposal to subdivide 40 acres into 3 single-family lots of approximately 13 acres per lot.

Water Supply Demand

According to the submitted Water Supply Information Summary for McConnell Minor Subdivision, the total estimated water requirement is 1 acre-feet/year (0.78 acre-feet/year for a total of 3 single family residences, and 0.17 acre-feet/year for 1 acre of irrigation). Be advised that 0.17 acre-feet/year is not sufficient water to irrigate 1 acre.

Source of Water Supply

According to the Water Supply Information Summary, the proposed source of water supply is existing well, permit no. 126743 (located on proposed Lot 1), and individual on-lot wells producing from the nontributary Arapahoe Aquifer that would be permitted pursuant to Determination of Water Right no. 3532-BD (the apparent supply for proposed Lots 2 and 3).

Existing small-capacity well, permit no. 126743 was issued on the subject 40 acres described as the SE ¼ of the NE ¼ of Sec. 24, Twp. 12 S, Range 63 W, 6th P.M., and produces from both the alluvial and Denver aquifers. Permit no. 126743 was issued without consideration of material injury to other water rights. Upon approval of the proposed subdivision, the lot on which permit no. 126743 will be located will be smaller than the 40 acres on which the permit was issued, rendering the permit invalid, meaning the well could not continue to operate under permit no. 126743. Because the proposed lot on which well permit no. 126743 would be located, will be part of a post-June 1, 1972 subdivision, material injury to other water rights would be a consideration in re-permitting the well. Withdrawal of water from the well would impact the over-appropriated alluvial aquifer of Upper Black Squirrel Creek or its tributaries, absent a replacement plan approved by the Ground Water Commission. The well could continue to operate only if it is re-permitted as a large capacity well pursuant a Replacement Plan approved by the Colorado Ground Water Commission. Be advised the ability to obtain a replacement plan and re-permit a well that produces from both the alluvial and Denver aquifers is highly unlikely.

Table 1 below shows the quantities of water allocated by the Determinations of Water Rights issued by the Ground Water Commission ("Commission") on June 18, 2018 to be used on the subject 40 acres based on an aquifer life of 100 years.



Table 1

Determination No.	Aquifer	Tributary Status	Annual Available based on 100 year allocation approach (acre-feet)
3531-BD	Laramie-Fox Hills	NT	15.6
3532-BD	Arapahoe	NT	13.3
3533-BD	Denver	NNT-Actual	15.0

The allowed average annual amount of withdrawal from the Arapahoe aquifer provided for in Determination of Water Right no. 3532-BD is 13.3 acre-feet. 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 37-90-107(7)(a), C.R.S., "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of water determined in Determination of Water Right no. 3532-BD are equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

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 13.3 acre-feet/year would be reduced to one third of that amount, or 4.4 acre-feet/year. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years. The proposed annual water supply of 4.4 acre-feet is more than the currently estimated annual demand of 1 acre-feet for the entire subdivision.

State Engineer's Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(l), C.R.S., it is our opinion that the proposed water supply is not adequate and cannot be provided without causing injury to decreed water rights.

It appears that in order to obtain a favorable opinion from this office on the proposed water supply to the subdivision, the applicant must properly estimate the water demands of the uses proposed on each lot, and propose an adequate source of water for proposed Lot 1.

If you, or the applicant, have any questions, please contact Neelha Mudigonda at 303-866-3581 ext. 8206.

Sincerely,

Cc: Division 2
Upper Black Squirrel Creek GWMD
Well Permit no.126743
Project no. 25245



Keith Vander Horst
Chief of Water Supply, Basins