



August 5, 2020

Ryan Howser
El Paso County Development Services Department
DSDcomments@elpasoco.com

RE: Sedona Sun Acres Subdivision (a.k.a. Abeyta Minor Subdivision)
Part of the E ½ of the NW ¼, Section 10, T12S, R65W, 6th P.M.
Upper Black Squirrel Creek Ground Water Management District
Water Division 2, Water District 10

Dear Mr. Howser:

We have received your July 9, 2020 submittals concerning the above-referenced proposal to subdivide a 37.7-acre parcel of land into four lots.

Water Supply Demand

According to a report from JDS-Hydro Consultants, Inc. dated March 2020 (“Water Resources Report”) provided with the submittal, the estimated water requirements total 4.0 acre-feet annually (1.0 acre-feet/year per lot), for in house use in one single family dwelling, irrigation and stock watering.

Source of Water Supply

The proposed source of water supply is individual on-lot wells producing from the non-tributary (actual replacement) Dawson aquifer pursuant to the Replacement Plan for Determination of Water Right No. 1068-BD.

Determination of Water Right no. 1068-BD was issued by the Ground Water Commission (“Commission”) on November 29, 2006 for an allowed average annual amount of withdrawal of ground water of 28.4 acre-feet from the Dawson Aquifer (based on an aquifer life of 100 years) to be used on 37.7 acres, which is the subject property of this referral.

On April 8, 2020 the Commission approved the Replacement Plan for Determination of Water Right no. 1068-BD. The Replacement Plan for Determination of Water Right no. 1068-BD allows for the withdrawal of 4.0 acre-feet per year of ground water from the Dawson aquifer for 300 years, through four wells to be located on four residential lots on 37.7 acres, which is the subject property of this referral. Each well may withdraw 1.0 acre-feet per year of groundwater to be used for use in one single family dwelling, stock and domestic animal watering, irrigation of lawn and garden, hot tub/swimming pool and augmentation. These allowed uses are consistent with the proposed uses specified in the Water Supply Report.

The proposed source of water for this development is a bedrock aquifer allocation from the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which the bedrock aquifer sources 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. 1068-BD is 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 the bedrock aquifer sources 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 4.0 acre-feet per year from the Dawson aquifer pursuant to the Replacement Plan for Determination of Water Right no. 1068-BD for a maximum of 300 years, is sufficient to supply the requirement of 4.0 acre-feet/year.

The Water Resources Report submitted makes reference to other water rights, including those in the Denver, Arapahoe and Laramie-Fox Hills Aquifers under Determination of Water Right nos. 1067-BD, 1066-BD and 1065-BD, but those rights are not identified as a sources of water for the subdivision.

The Water Supply Information Summary Sheet submitted indicates the existing well under permit no. 214120 will be used for the subdivision. Upon approval of this subdivision the conditions under which this permit was issued would no longer exist, making the well out of compliance with its permit. As the well would be located within a post-June 1, 1972 subdivision, material injury to other water rights are a consideration in both the proposed water supply to the subdivision and any re-permitting of the well. It appears that the existing well permit no. 214120 would have to be re-permitted pursuant to the Replacement Plan for Determination of Water Right no. 1068-BD, which has not been proposed.

State Engineer’s Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(I), 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 do the following:

1. The existing well under permit no. 214120 must either be re-permitted pursuant to the Replacement Plan for Determination of Water Right no. 1068-BD or the well must be plugged and abandoned prior to subdivision approval.

If you, or the applicant, have any questions, please contact Ailis Thyne at ailis.thyne@state.co.us.

Sincerely,

A handwritten signature in black ink that reads "Keith Vander Horst". The signature is written in a cursive style with a large initial 'K'.

Keith Vander Horst, P.E.
Chief of Water Supply, Designated Basins

Cc: Upper Black Squirrel Creek GWMD
Well permit no. 214120
SEO referral no. 27244

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