

EL PASO COUNTY



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April 15, 2019

Hannah Ridge at Feathergrass Filing Nos. 5, 6, and 7 (Final Plats)
File Nos. SF-18-38, SF-18-39, SF-18-40

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

NOTE: The State Engineer’s Office (“SEO”) issued water opinions for Hannah Ridge Filing Nos. 5, 6 & 7 in November 2018, but based on the Applicant’s demand of 0.42 acre-feet/lot/year, the SEO only could find sufficiency for Filings 5 and 6. Cherokee Metropolitan District submitted new engineering reports with new demand figures to the SEO that reduced the demand to 0.31 acre-feet/year/lot. The SEO used these numbers and prepared a new composite water opinion for Hannah Ridge at Feathergrass Filing Nos. 1-7 and the Shops, in which the SEO found the developments could be supplied without injury to existing water rights. Cherokee had to then provide new commitments to serve based on the new demand figures, which the County Attorney’s Office received on April 10. Given the composite review by the SEO, the revised commitment letter for all 3 filings by Cherokee, and the same sources of renewable water for all 3 filings, this water review will cover Filings 5, 6 & 7, with a recommendation for sufficient quantity and dependability.

1. This is a proposal by Feathergrass Investments, LLC (“Applicant”) for approval of Final Plats for Filing Nos. 5, 6, and 7, of the Hannah Ridge at Feathergrass subdivision. The property is zoned PUD. The acreage and number of lots for each Filing is noted below:

Filing No.	Total acres in Filing	Number of Lots
5	12.92 +/-	55
6	7.94 +/-	33
7	13.71 +/-	81



2. The Applicant has provided that the source of water for the subdivision will derive from the Cherokee Metropolitan District (“District”). Sand Creek Investments North, LLC, entered into Assignment of Water and Sewer Service Agreements with Feathergrass Investments, LLC, whereby Sand Creek assigned all of its rights and obligations under its Agreements with the District to Feathergrass and Feathergrass accepted the same. These Agreements provided two sources of water to the District for use in Applicant’s developments: 76.0 acre-feet of Tipton Well water and 60.5 acre-feet of the Kane Water Right for a total of 136.5 acre-feet of water. Because the State Engineer has determined that both water sources are annually renewable, pursuant to § 8.4.7.B.9.a.i, LDC, the water supply is presumed to meet the County’s 300 year aquifer life requirement.

3. **State Engineer’s Office.** The State Engineer addressed the water demands for all 3 filings in separate letters for each filing dated November 19, 2018. In a subsequent letter dated February 13, 2019, the State Engineer collectively reviewed information for Filings 5, 6, and 7, and provided recalculated (reduced) water demand amounts from the State Engineer’s previous letters.¹ Pursuant to the State Engineer’s correspondence and discussion with the District’s Manager, the SEO concluded the recent engineering reports supported a more conservative estimated annual water use rate of 0.31 acre-feet per household in contrast to the District’s earlier estimate of 0.42 acre-feet per household. The State Engineer noted that the 0.31 acre-feet estimate was consistent with the “standard water use rate, as found in the Guide to Colorado Well Permits, Water Rights, and Water Administration.” The chart below provides the initial water demand calculations from the State Engineer’s November 19th letters and the revised water demand calculations reflecting the updated 0.31 acre-feet per household use estimate plus applicable irrigation amounts.

Filing No.	Initial Demand (A/F)	Revised Demand (A/F)	<i>Park/Open Space Irrigation (acres)</i>	Park/Open Space Irrigation (A/F)	Initial TOTAL Demand (A/F)	Revised TOTAL demand (A/F)
5	13.86	17.05	1.32	3.43	26.31	20.48
6	13.86	10.23	1.47	3.82	17.68	14.05
7	34.02	25.11	0	0	34.02	25.11

The water demands as noted by the State Engineer are further detailed as follows:

Filing No. 5

The Filing No. 5 Final Plat consists of a total of 12.92 acres +/- and a total of 55 lots. The water requirements are calculated as follows: 0.31 acre feet/yr. x 55 lots = 17.05

¹ The State Engineer also provided recalculated water demand figures for Filings 1 – 4 and Shops at Feathergrass. Those Filings are not addressed in this review.

acre-feet, plus irrigation of open space at 3.43 acre-feet. The total demand for Filing No. 5 is 20.48 acre-feet per year.

Filing No. 6

The Filing No. 6 Final Plat consists of a total of 7.94 acres +/- and a total of 33 lots. The water requirements are calculated as follows: 0.31 acre feet/yr. x 33 lots = 10.23/acre-feet, plus irrigation of open space at 3.82 acre-feet. The total demand for Filing No. 6 is 14.05 acre-feet per year.

Filing No. 7

The Filing No. 7 Final Plat consists of a total of 13.71 acres +/- and a total of 81 lots. The water requirements are calculated as follows: 0.31 acre feet/yr. x 81 lots = 25.11 acre-feet and no irrigation of open space. The total demand for Filing No. 7 is 25.11 acre-feet per year.

The State Engineer indicates that the running total of demand for all of the Hannah Ridge at Feathergrass Filings (including Shops at Feathergrass) is 119.35/acre-feet per year.

The State Engineer described the sources of water for the District. The first source of the District's water is the Kane Water Right.

"The 'Kane No. 1 Water Right' is not a separate water right, but rather a contractual water right for a portion of water removed under contract from the Sweetwater Well Field operated by Cherokee. The Kane Water Right is not viewed by this office as a commitment from Cherokee, but a pre-existing 'first-in-line' delivery that Cherokee accepted upon assuming control of the Sweetwater Well Field. Since Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16 are currently the only wells that may legally be used to supply water outside of the Designated Basin, the State Engineer's Office based its opinion on the understanding that the 200 acre-feet would come from Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16."

The second source of water is the Tipton Water.

"The second source of water is 76 acre-feet per year of Tipton Water, as documented by the December 4, 2006 'Water and Sewer Service Agreement' between Cherokee and Sand Creek Investments North, LLC. The 76 acre-feet is part of 225 acre-feet of fully consumable and exportable water adjudicated to the Tipton Well in Colorado Ground Water Commission Case No. 91GW01, for use and export outside of the Upper Black Squirrel Creek Designated Ground Water Basin."

The SEO indicated that based on the 60.5 acre-feet available from the Kane Water Right and the 76 acre-feet available from the Tipton Water, there is a total amount of water available to the Hannah Ridge subdivisions of 136.5 acre-feet per year. The District also committed an additional 0.62 acre-feet/year to Hannah Ridge in a commitment letter dated October 15, 2018 for a total of 137.12 acre-feet per year available to the subdivision. Pursuant to the State Engineer's updated calculations, 59.71 acre-feet has already been committed to the other Filings in Hannah Ridge at Feathergrass (and Shops at Feathergrass). Based on the calculations of the State Engineer and the water rights owned by the District, the State Engineer provided the opinion that pursuant to "Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply for Filing Nos. 1-7 and Shops of Hannah Ridge at Feathergrass can be provided without causing injury to decreed water rights and is expected to be adequate." Finally, the Engineer notes that the Sweetwater Wells and the Tipton Well are constructed into the Quaternary alluvium, which is considered annually renewable.

NOTE: The State Engineer's Office also provided an advisory to the Applicant related to any onsite drainage/water quality pond that may be part of the project. The Engineer advised the Applicant that ". . . unless the proposed improvements to the existing storm water structure can meet the requirements of a 'storm water detention and infiltration facility' . . . the structure may be subject to administration by this office. The applicant should review the *DWR's Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado* . . . to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements."

4. **Cherokee Metropolitan District.** The General Manager of the District provided letters of commitment for the Hannah Ridge subdivision, including Filing 5 (October 15, 2018), Filing 6 (August 17, 2018), and Filing 7 (August 17, 2018). The letters set forth a water demand of 0.42/acre-feet/lot for the Hannah Ridge at Feathergrass subdivision. Based on his correspondence and conversations with the State Engineer's Office, the District Water & Wastewater Collections Manager provided a confirming letter of commitment dated April 10, 2019, confirming the calculations set forth in the State Engineer's February 13, 2019 letter. See letters from the District and the State Engineer's Office attached hereto as Exhibits A and B, respectively. The District letter stated "the District stands ready and willing to provide water and sewer service for the specific properties [Filings 5, 6, and 7] and uses detailed herein." Further, "[t]his revised commitment letter addresses the revised water demand calculations and statements of water sufficiency determined by the State Engineer's Office in a letter dated February 13, 2019." The County Attorney's Office considers the District's revised commitment letter and the references therein to the revised demand

figures in the SEO's February 13, 2019 letter, together to constitute a firm commitment to serve by the District.

5. **Water Quality.** 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 that may be provided by the El Paso County Health Department.

6. **Analysis and Recommendation.** Cherokee Metropolitan District has a total of 137.12 acre-feet of annual water supply available for the Hannah Ridge at Feathergrass subdivision which was contracted by the District as part of the Kane Water Right (60.5 acre-feet) and the Tipton Water (76 acre-feet) (total of 136.5 acre-feet) and an additional commitment of 0.62 by the District pursuant to their commitment letter of October 15, 2018. Based on the recalculated amounts of water demand required for Filing 5 (20.48 acre-feet/year), Filing 6 (14.05 acre-feet/year), and Filing 7 (25.11 acre-feet/year), there is a total annual water demand of 59.64 acre-feet/year inclusive of the 3 Filings. The State Engineer's calculations indicate a running total of water demand for all the Hannah Ridge Filings of 119.35 acre-feet; therefore, there is a remaining surplus of 17.77 acre-feet available to the District. Therefore, based on the finding of sufficiency and no injury to existing water rights by the State Engineer, on the commitment to serve by the District, and subject to the conditions set forth below, the County Attorney's Office recommends a finding of **sufficiency** as to water quantity and dependability for the proposed total of 169 single-family lots for Hannah Ridge at Feathergrass Filing Nos. 5, 6, and 7. The El Paso County Health Department may confirm that the District is in compliance with the water quality regulations.

CONDITION OF COMPLIANCE:

- A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, and specifications set by the District, including the District's requirement that the project "must achieve appropriate zoning and a final plat land use entitlement from the El Paso County Development Services within 12 months of the date of this letter" [letter dated April 10, 2019].
- B. It is Applicant's responsibility to comply with the advisory by the State Engineer's Office regarding its onsite drainage/water quality pond to ensure that the structure meets the requirements of a 'storm water detention and infiltration facility' and that notice, construction and operation of the proposed structure meets statutory and administrative requirements.

C. Applicant is required to submit updated Water Supply Information Summary forms for each filing prior to the subdivision approval request being heard before the Board of County Commissioners.

cc: Kari Parsons, Project Manager, Planner II



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-2842

Telephone: (719) 597-5080 Fax: (719) 597-5145

April 10, 2019

Jim Boulton
c/o Classic Homes
6385 Corporate Drive
Suite 200
Colorado Springs, CO 80919

Re: Residential Development – Hannah Ridge at Feathergrass Filings #5, #6, #7
Commitment Letter #2019-02 (Revision of Previous Commitment Letters)
Hannah Ridge Filing #5 --- Commitment Letter #2018-13
Hannah Ridge Filing #6 --- Commitment Letter #2018-09
Hannah Ridge Filing #7 --- Commitment Letter #2018-10

Dear Mr. Boulton,

As requested, this letter is being provided as a revised Letter of Commitment by the Cherokee Metropolitan District (District) to provide municipal water and sewer service for the above-mentioned developments. These parcels of land are located within the District's service boundary and, therefore, the District stands ready and willing to provide water and sewer service for the specific properties and uses detailed herein.

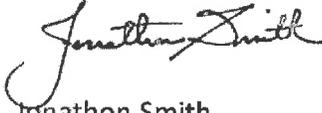
This revised commitment letter addresses the revised water demand calculations and statements of water sufficiency determined by the State Engineer's Office in a letter dated February 13, 2019. Regarding the wastewater capacity, all previously committed capacity of the District's Water Reclamation Facility (WRF) for Hannah Ridge Filings #5, #6, and #7 remain in full effect as the WRF has the available capacity for such commitments.

This commitment letter is hereby made exclusively for these specific development projects at this site, within the District, and must achieve appropriate zoning and a final plat land use entitlement from El Paso County Development Services within 12 months from the date of this letter; otherwise, the District may use this allocation for other developments requesting a water commitment for growth that stands ready to develop.

EXHIBIT A

I trust that you find this letter adequate for your needs and land use applications. If I may be of further assistance, please contact me at your convenience.

Best Regards,

A handwritten signature in black ink that reads "Jonathon Smith". The signature is written in a cursive style with a large initial "J".

Jonathon Smith

Water & Wastewater Collections Manager

Encl: Water Sufficiency Letter from State Engineer's Office
Commitment Letter #2018-09 --- Hannah Ridge Filing #5
Commitment Letter #2018-10 --- Hannah Ridge Filing #6
Commitment Letter #2018-13 --- Hannah Ridge Filing #7

Ec: Amy Lathen, General Manager, Cherokee Metropolitan District
Jeff Munger, Water Resource Engineer, Cherokee Metropolitan District
Cole Emmons, Senior Assistant County Attorney, El Paso County Attorney's Office
Edith Anderson, Paralegal, El Paso County Attorney's Office



COLORADO
Division of Water Resources
Department of Natural Resources

February 13, 2019

El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910-3127

RE: Hannah Ridge at Feathergrass Filing Nos. 1-7 and Shops
Final Plat
Sec. 32, Twp. 13S, Rng. 65W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 21286

To Whom It May Concern:

We received your revised submittal dated January 12, 2019 concerning the Final Plat for Hannah Ridge at Feathergrass Filing Nos. 1-7 and Shops. Our office previously provided comments for the Hannah Ridge at Feathergrass on the following dates:

Hannah Ridge at Feathergrass Preliminary Plan Amendment on May 13, 2013
Filing No. 1 on September 19, 2013
Shops on January 21, 2014
Filing No. 2 on August 10, 2015
Filing No. 3 (replat of Tract FF) on May 31, 2017
Filing No. 4 (replat of Tract GG) on June 14, 2017
Filing No. 5 (replat of Tracts HH and JJ; Phases 5 and 6 in the preliminary plat) on November 19, 2018
Filing No. 6 (replat of Tract KK; Phase 7 in the preliminary plat; Phase 8 in subsequent correspondence) on November 19, 2018
Filing No. 7 (replat of Tract LL; Phase 8 in the preliminary plat; Phase 7 in subsequent correspondence) on November 19, 2018

The proposed supply of water and wastewater disposal is to be served by the Cherokee Metropolitan District ("Cherokee").

Water Supply Demand

The Water Supply Information Summary, Form No. GWS-76, included with the previous submittals provided an estimated water demand of 0.42 acre-feet/year per lot for 344 lots, 11.03 acre-feet/year for irrigation of 4.59 acres, and 1.68 acre-feet/year for shops for a total estimated water demand of 156.97 acre-feet/year. Per correspondence with Jonathon Smith, Water and Wastewater Collections Manager for Cherokee, more recent engineering reports support a conservative estimate of water use for single family homes to be 0.31 acre-feet per year. This is consistent with standard water use rate, as found in the Guide to Colorado Well Permits, Water Rights, and Water Administration. The estimated water demand for



the subdivision has been amended to 119.35 acre-feet/year, as shown in the following table:

Phase	Single Family Residential			Park/Open Space		Filing Total Demand (AF)		Running Total Demand (AF)	
	No. Lots	Demand, Initial (AF)	Demand, Revised (AF)	No. Acres	Demand (AF)	Initial	Revised	Initial	Revised
1	45	18.90	13.95	0.5	1.05	19.95	15.00	19.95	15.00
2	39	16.38	12.09	0	0	16.38	12.09	36.33	27.09
3	39	21.84	12.09	1.3	2.73	19.11	14.82	55.44	41.94
4	52	22.88	16.12	0	0	21.84	16.12	77.28	58.03
5	55	13.86	17.05	1.32	3.43	26.31	20.48	103.59	78.51
6	33	13.86	10.23	1.47	3.82	17.68	14.05	121.27	92.56
7	81	34.02	25.11	0	0	34.02	25.11	155.29	117.67
Shops	1	1.68	1.68	0	0	1.68	1.68	156.97	119.35

Source of Water Supply

The proposed source of water is to be served by Cherokee, and an August 17, 2018 letter of commitment was included with the most recent submittal. According to the letter, a 76 acre-feet per year source of water was purchased by Sand Creek Investments North, LLC for Hannah Ridge at Feathergrass subdivisions.

The first source of water is 60.5 acre-feet per year of the Kane Water Right, as documented by the October 11, 2006 "Water and Sewer Service Agreement" between Cherokee and Sand Creek Investments North, LLC. The Kane Water Right is not a separate water right, but rather a contractual water right for a portion of water removed under contract from the Sweetwater Well Field operated by Cherokee. The Kane Water Right is not viewed by this office as a commitment from Cherokee, but a pre-existing "first-in-line" delivery that Cherokee accepted upon assuming control of the Sweetwater Well Field. Since Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16 are currently the only wells that may legally be used to supply water outside of the Designated Basin, the State Engineer's Office based its opinion on the understanding that the 200 acre-feet would come from Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16.

The second source of water is 76 acre-feet per year of Tipton Water, as documented by the December 4, 2006 "Water and Sewer Service Agreement" between Cherokee and Sand Creek Investments North, LLC. The 76 acre-feet is part of 225 acre-feet of fully consumable and exportable water adjudicated to the Tipton Well in Colorado Ground Water Commission Case No. 91GW01, for use and export outside of the Upper Black Squirrel Creek Designated Ground Water Basin.

An October 15, 2018 letter of commitment dedicates an additional 0.62 acre-feet/year to Hannah Ridge at Feathergrass subdivision, for a total of 137.12 acre-feet per year.

Additional Comments

Should the development include construction and/or modification of any storm water structures, the Applicant should be aware that, unless the storm water

structure(s) can meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR’s Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado, available on the Colorado Division of Water Resources website at: <http://water.state.co.us/DWRIPub/Documents/DWR%20Storm%20Water%20Statement.pdf>, to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.

State Engineer’s Office Opinion

Pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply for Filing Nos. 1-7 and Shops of Hannah Ridge at Feathergrass can be provided without causing injury to decreed water rights and is expected to be adequate.

The Sweetwater Wells (from which the Kane Water Right is withdrawn from) and the Tipton Well (from which the Tipton Water is withdrawn from) are constructed into the Quaternary alluvium, which is considered to be annually renewable with no administrative life span. The long term adequacy of any ground water source may be subject to fluctuations due to hydrological and climatic trends.

Should you have any questions concerning this matter, please feel free to contact me directly.

Sincerely,



Kate Fuller, P.E.
Water Resources Engineer

ec: Bill Tyner, Division 2 Engineer
Doug Hollister, District 10 Water Commissioner
Jonathon Smith, Cherokee Metropolitan District

KFF:kff