



December 14, 2023

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

RE: Atwood Subdivision – Final Plat
NE1/4 of the Sec. 36, Twp. 11S, Rng. 67W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 29183

To Whom It May Concern,

We have received additional information concerning the submittal to subdivide a 5.04-acre lot into 2 single-family residential lots. The two lots will be approximately equal in size with no existing wells on either lot. The water supply to these lots will be provided by two on-lot wells with wastewater being disposed of through individual on-lot septic disposal systems. This office previously provided comments concerning this subdivision on May 2nd, 2022.

Water Supply Demand

The Water Supply Information Summary, included with the submittal, estimated a total annual use for the subdivision of 0.9 acre-feet for all combined uses on both lots (2,000 square-feet of lawn and garden). The applicant has now amended Case No. 2021CW3010 to allow for a 300 year water supply in Case No. 2022CW0030. Case No. 2022CW0030 allows for the use of two wells completed in the Denver aquifer. Each well would be permitted to pump 0.2285 acre-feet per year for a total combined pumping of 0.457 acre-feet per year from both wells. The permitted use is household use and fire protection on the subject properties. No outdoor irrigation or animal watering is permitted.

Source of Water Supply

The anticipated source of water is to be provided by two on-lot wells. This wells will produce from the Denver aquifer. The wells will operate pursuant to the augmentation plan decreed in case no. 22CW0030 (Division 2, previous Case No. 21CW3010). The water underlying this property was adjudicated and the applicant is the owner of the Dawson, Denver, Arapahoe, and Laramie Fox-Hills aquifers.

According to the decree referenced above, the following amounts of water shown in Table 1, below, were determined to be available underlying the 5.04-± acre tract of land owned by the applicant.



Table 1 - Denver Basin Ground Water Rights

Aquifer	Tributary Status	Volume (AF)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Dawson	NNT	101	1.01	0.336
Denver	NNT	278.2	2.782	0.927
Arapahoe	NNT	0	0	0
Laramie-Fox Hills	NT	140	1.4	0.466

The plan for augmentation decreed in case no. 2022CW0030 allows for annual diversion of 0.457 acre-feet from the Denver aquifer for the uses proposed in the subdivision referral (The applicant has should be limited to 0.457 acres-feet and not the 0.9 acre-feet per year requested in the original referral materials).

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. 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 37-90-137(4)(b)(I), C.R.S., “Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years.” Based on this **allocation** approach, the annual amounts of water decreed is equal to one percent of the total amount available as determined by Rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those 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 annual estimated demand, for the entire subdivision, is a maximum of 0.457 acre-feet as allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

State Engineer’s Office Opinion

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the anticipated water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. 37-90-137(4) and the plan for augmentation noted herein, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of any future well permits.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory **allocation** approach, for the proposed uses is greater than the annual amount of water required to supply the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 2 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decrees, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in case no. 2022CW0030 (Division 2), was calculated based on estimated current aquifer conditions. For planning purposes, the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply. Furthermore, that applicant will need to apply for, and obtain a new well permits issued pursuant to Section 37-90-137(4) C.R.S.

Should you or the applicant have questions regarding any of the above, please contact me at this office.

Sincerely,



Ivan Franco, P.E.
Water Resource Engineer

cc: Division 2 Engineer
District 10 Water Commissioner