

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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May 19, 2021

PUDSP-21-3 Trails at Aspen Ridge  
PUD/Preliminary Plan Amendment

Reviewed by: Lori L. Seago, Senior Assistant County Attorney  
Edi Anderson, Paralegal, ACP

### **FINDINGS AND CONCLUSIONS:**

1. This is a PUD preliminary plan amendment proposal by COLA, LLC ("Applicant"), to subdivide a 118 +/- acre parcel into 680 single-family residential units. The property is zoned PUD (Planned Unit Development). This proposal was previously part of the Waterview Sketch Plan Phase 2 and the Waterview East Preliminary Plan.

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 ("WSIS"), the Applicant estimated its annual water needs to serve household use and irrigation for this subdivision at 238 acre-feet. This calculation is based on the District's annual acre-feet single-family equivalent of 0.35 acre-feet. Based on these figures, the Applicant must provide a supply of 71,400 acre-feet of water (238 acre-feet/year x 300 years) to meet the County's 300-year water supply requirement for the subdivision. Since the District's water supply is considered annually renewable, 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. of the El Paso County Land Development Code (LDC), "[w]ater provided from renewable groundwater sources is considered to be annually renewable and, therefore, is considered to have a minimum life of 300 years." While not highlighted in this submittal, information in County Attorney's Office files indicates that the general well locations in the District place most of the wells approximately within one to two miles of either Fountain Creek or Jimmy Camp Creek, and given the augmentation supply of the transmountain Frying Pan/Arkansas Project water which is a tributary renewable source, it appears the proposed water supply is an annually renewable source and falls within the provisions of LDC Section 8.4.7.C.1. Based on the foregoing, the proposed supply is considered to have a minimum life of 300 years.

4. In a letter dated March 22, 2021, the State Engineer Office reviewed the application to subdivide the 118 +/- acres into 680 single-family residential lots. The State

Engineer identified the water demand for the subdivision at 238 acre-feet/year, which equates to 0.35 acre-feet/year per single-family residence. The State Engineer provided the opinion that “[a]ccording to this office’s records, it appears the District has sufficient water resources to serve the proposed development. Based upon the above and 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.”

5. The District’s Engineer provided letters of commitment for the Trails at Aspen Ridge subdivision dated February 5, 2021 and April 15, 2021. The February 5<sup>th</sup> letter stated that the District commits to providing water service to Trails at Aspen Ridge consisting of “680 Residential Lots with an annual water requirement of 238.00 acre-feet. The District has existing legal and physical water supply to meet the expected demand.”

6. PFCs. On May 19, 2016, the Environmental Protection Agency (“EPA”) announced that it lowered the health advisory levels (“HAL”) for perfluorinated 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 at the time 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.”

7. Analysis: With a proposed annual demand of 238 acre-feet/year, based on the current commitments of the District and the District’s annually renewable water supply, it appears the proposed water supply will be sufficient.

8. 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.

9. Therefore, based upon the finding of sufficiency and no injury by the State Engineer, the District’s commitment to serve, 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. El Paso County Public Health may wish to confirm that the District is in compliance with the water quality regulations.

#### **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. John Green, Planner II



RECEIVED

AUG 01 2016

El Paso County  
Attorney's Office

37 Widefield Boulevard, Colorado Springs, Colorado 80911

July 29, 2016

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

**Re: Perfluorinated Compounds**

Dear Mr. Emmons:

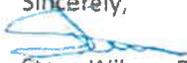
Due to all of the negative media pertaining to PFC's in the water, I wanted to write to you to explain what has occurred and to reiterate in writing that the new health advisory level for PFC's in no way impacts or reduces Widefield Water and Sanitation District's water supply quantity or our ability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

