

## County Attorney

Kenneth R. Hodges, County Attorney  
719-520-6485  
Centennial Hall  
200 S. Cascade, Suite 150  
Colorado Springs, CO 80903  
www.ElPasoCo.com

Board of County Commissioners  
Holly Williams, District 1  
Carrie Geitner, District 2  
Stan VanderWerf, District 3  
Longinos Gonzalez, Jr., District 4  
Cami Bremer, District 5

October 25, 2023

SF-23-25 Sterling Recycling Subdivision

Reviewed by: Lori Seago, Senior Assistant County Attorney  
April Willie, Paralegal

### WATER SUPPLY REVIEW AND RECOMMENDATIONS

#### Project Description

1. This is a proposal by Rhetoric Real Estate LLC (“Applicant”), to subdivide an approximately 32.43 +/- acre tract of land into 2 lots (“Property”). Lot 1 will be 6.59 acres and used for a warehouse and Lot 2 will be 24.06 acres for asphalt and concrete storage. The property is zoned I-3 (Heavy Industrial).

#### Estimated Water Demand

2. The Applicant has provided for the source of water to derive from a central water system – Falcon Area Water & Wastewater Authority (“FAWWA or Authority”). As described in the *Water Supply Information Summary* (“WSIS”), the Applicant estimates the following water requirements to serve 2 lots at 0.353 acre-feet/year for household use, 0.53 acre-feet/year for commercial use (dust suppression), and 0.63 acre-feet/year for irrigation of 0.25 acres, for a total requirement of 1.51 acre-feet/year. The Applicant would need to provide a supply of 453 acre-feet of water (1.51 acre-feet/year x 300 years) to meet El Paso County’s 300-year water supply requirement.

#### Proposed Water Supply

3. The Applicant has provided for the source of water to derive from FAWWA. The Authority was recently created to serve Sterling Ranch and The Retreat at TimberRidge, previously served by Sterling Ranch Metropolitan District. The *Water Resources Report* (“Report”) indicates the Authority’s water supply is sourced from a variety of water rights,

#### ASSISTANT COUNTY ATTORNEYS

NATHAN J. WHITNEY  
CHRISTOPHER M. STRIDER

STEVEN A. KLAFFKY  
TERRY A. SAMPLE

LORI L. SEAGO

BRYAN E. SCHMID  
STEVEN W. MARTYN

MERI GERINGER  
DOREY L. SPOTTS

including on-site water from non-tributary and not non-tributary Denver, Arapahoe and Laramie-Fox Hills aquifer wells pursuant to the Water Decree in 20CW3059 and on-site rights at the Retreat at Timber Ridge. The *Report* indicates that the current total water commitment for FAWWA is currently at 959.35 annual acre-feet/300 years, which includes active water commitments current through September 15, 2023. The total available water supply for FAWWA is 1930.03 annual acre-feet for 300 years. After subtracting active water commitments, the current available water supply is now 970.68 annual acre-feet/300 years.

4. The Authority provided a letter of commitment for Sterling Recycling Subdivision dated September 19, 2023, in which FAWWA committed to providing water service for the 2 lots, for an annual water requirement of 1.51 acre-feet/year.

#### State Engineer's Office Opinion

5. In a letter dated October 9, 2023, the State Engineer's Office reviewed the application to subdivide the 32.43 +/- acres into 2 lots. The proposed supply of water to the subdivision will be served by FAWWA to meet an estimated demand of 1.51 acre-feet/year.

The State Engineer estimates that FAWWA has a total available water supply of 1,929.85 acre-feet/year based on a 300-year supply. After subtracting the 959.35 acre-feet of existing service commitments, the State Engineer agrees that "there appears to be more than sufficient legal supply to supply this development on a 300-year basis."

Further, the State Engineer provided their opinion that ". . . pursuant to C.R.S. 30-28-136(1)(h)(l), it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights."

#### Recommended Findings

6. Quantity and Dependability. Applicant's water demand is 1.51 acre-feet per year for a total demand of 453 acre-feet for the subdivision for 300 years, to be supplied by FAWWA. **Based on the Authority's available water supply of approximately 970.68 annual acre-feet, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for Sterling Recycling Subdivision.**

7. Quality. The water quality requirements of Section 8.4.7.B.10.g. of the El Paso County Land Development Code must be satisfied. Section 8.4.7(B)(10)(g) of the Code allows for a presumption of water quality when water is supplied from an existing Community Water Supply operating in conformance with the Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the *Water Supply Information Summary*, the *Water Resources Report* dated September 15, 2023, the *Falcon Area Water & Wastewater Authority* letter dated September 19,

2023, and the *State Engineer Office's Opinion* dated October 9, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

**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.
- B. Prior to recording the final plat:
  - 1. Applicant shall upload into eDARP a corrected commitment letter from the water provider that states it is for the Sterling Recycling final plat rather than the Lot 1 Site Development Plan.
  - 2. Applicant shall upload into eDARP a corrected Water Resource Report making the same correction.
- C. Please note the comments of the State Engineer's Office regarding FAWWA's total water supply and make corrections, if needed, in Water Resource Reports for future subdivisions served by this District.

cc: Kylie Bagley, Project Manager, Planner