

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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MS-21-10 MA Subdivision (Monument Academy)  
Minor Subdivision

Reviewed by: Lori L. Seago, Senior Assistant County Attorney  
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## WATER SUPPLY REVIEW AND RECOMMENDATIONS

### Project Description

1. This is a proposal by the Monument Academy Foundation and Walden Corporation ("Applicant") for a minor subdivision on 62.6 acres, including the existing Monument Academy High School on 19.38 acres; plus 2 tracts for future development, which include Tract A (15.35 acres) and Tract B (19.90 acres), 2 tracts of 1.03 acres (Tract C) and 0.17 acres (Tract D) to be transferred to adjoining property owners for a lot-line adjustment, and right-of-way totaling 6.77 acres (the "property"). The final plat will facilitate the existing Monument Academy High School structure. No development is currently allowed on the remaining tracts and the future development tracts must be submitted for full subdivision review, including a request for water sufficiency. The property is currently zoned RR-5 (Rural Residential).

### Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the minor subdivision demand is 3.10 acre-feet/lot, which reflects 2.29 acre-feet for the school and 0.81 acre-feet for 0.5 acres of irrigation. Based on the total demand, Applicant must be able to provide a supply of 930 acre-feet of water (3.10 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

### Proposed Water Supply

3. The Applicant has provided for the source of water to derive from Walden Corporation ("Corporation"), a private central water supplier. The Applicant provided a *Water Resources Report for Monument Academy Subdivision and Walden Preserve 2, Filing No. 5*,

dated December 8, 2021 and as revised April 7, 2022 (“*Report*”). The Corporation operates a central water supply system utilizing 7 Denver Basin wells. 6 wells are completed into the Dawson aquifer as decreed in Case Nos. W-7843-74 and W-6220 and 1 well (Permit No. 32697-F) is completed into the Denver aquifer. The *Report* states that “[t]he total annual appropriation of the Walden Corporation wells is 604 af/yr, providing a total decreed 100-year supply of 60,400 acre-feet” [201.33 acre-feet/year for 300 years]. The *Report* states that the water demand for Monument Academy would be “3.1 acre-feet per year, which correlates to 9.1 SFE”. The *Report* further states that Walden Corporation has total available resources of 75,900 acre-feet and the previous commitments require a total commitment of 28,431 acre-feet. These figures result in available water resources in the amount of 47,469 acre-feet (158.23 acre-feet/year for 300 years).

4. Matthew Dunston, on behalf of Walden Corporation, provided a letter of commitment for the MA Subdivision dated August 30, 2021 in which the Corporation committed to providing water service to the 1 lot encompassing the Monument Academy High School with an annual water demand of 3.10 acre-feet/year, including water supply for the school and landscape irrigation.

#### State Engineer’s Office Opinion

5. In a letter dated June 13, 2022, the State Engineer reviewed the proposal to subdivide the 62.6-acre parcel into 1 lot, plus right-of-way, and tracts for future development. The State Engineer provided a detailed review of the Corporation’s water rights which include decrees in Case Nos. 2016CW3103 (Division 1) and 2016CW3048 (Division 2), and the well permits granted to the Corporation in the Dawson and Denver aquifers pursuant to Case Nos. W-7843-74 and W-6220.

The State Engineer noted that some of the Corporation wells are not fully developed to pump decreed amounts; but also noted that the Corporation has “supplemental not nontributary Dawson aquifer water from the decree in consolidated Case Nos. 2002CW187 (Division 1) and 2002 CW117 (Division 2).” Based on their review and pursuant to the *Report*, the State Engineer identified that the Corporation has “approximately 28,410 acre-feet (based on the actual amount determined by SEO) of Denver Basin ground water available for additional commitments.” The State Engineer confirmed that the “proposed water supplier for the Monument Academy Minor Subdivision is the Walden Corporation (“Corporation”), a private water company.” Further, the “Corporation is committed to provide central water and sewer to Lot 1 for Monument Academy High School with an estimated annual demand of 3.10 acre-feet/year.” Finally, “[p]ursuant to Section 30-28-136(1)(h)(I), C.R.S. and Section 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply for Monument Academy Minor Subdivision is adequate and can be provided without causing injury to decreed water rights.”

#### Recommended Findings

6. Quantity and Dependability. Applicant's water demand for the MA Subdivision is 3.10 acre-feet/year, for a total of 930 acre-feet for 300 years, to be supplied by the Walden Corporation.

**Based on the water demand of 3.10 acre-feet/year for the minor subdivision and the Corporation's availability of water sources, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the MA Subdivision.**

7. Quality. The water quality requirements of Section 8.4.7.B.10 of the Code must be satisfied. Section 8.4.7.B.10.g. of the 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.

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the Water Supply Information Summary provided October 1, 2021, the *Water Resources Report* dated April 7, 2022, the Walden Corporation letter dated August 30, 2021, and the State Engineer Office's Opinion dated June 13, 2022. 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 Corporation.
- B. Applicant shall upload water decree Case Nos. W-7843-74 and W-6220 to eDARP prior to filing the final plat.
- C. The following plat note shall be added that addresses the State Engineer's admonition to advise landowners of potential limited water supplies in the Denver Basin:  
"Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicants and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 200 years used for allocation indicated due to anticipated water level

declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply.”

cc. Ryan Howser, Planner II