

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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July 23, 2019

PUDSP-19-5 Carriage Meadows South at Lorson Ranch Filing No. 2 *LL*  
PUD/Preliminary Plan

Reviewed by: Lori Seago, Senior Assistant County Attorney *LL*  
Edi Anderson, Paralegal

### FINDINGS AND CONCLUSIONS:

1. This is a PUD/Preliminary Plan proposal by Lorson, LLC ("Applicant"), to subdivide an approximately 5.322 +/- acre parcel into 50 single-family attached dwelling units. The property is zoned PUD (Planned Unit Development) and RMH (Residential Medium/High).
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 and the *Water Demand and Wastewater Disposal Report for Carriage Meadows South at Lorson Ranch Filing No. 2 dated December 2018*, the Applicant estimates its annual water needs to serve household use for this filing at 19.25 acre-feet, based on the District's 0.35 annual acre-feet per single-family equivalent (0.35 acre-feet per lot for 50 dwelling units, plus 1.75 acre-feet for community landscaping and irrigation). Based on these figures, the Applicant must provide a supply of 5,775 acre-feet of water (19.25 acre-feet/year x 300 years) to meet the County's 300 year water supply requirement for the subdivision. Since the District's water 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 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. Thus, the proposed supply is considered to have a minimum life of 300 years.

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4. In a letter dated June 3, 2019, the State Engineer reviewed the application to subdivide the 5.322 +/- acres into 50 single-family attached residential lots. The Engineer reviewed this matter based on information provided in the Water Supply Information Summary, *Water Demand and Wastewater Report*, and the District's letters dated January 11, 2019 and April 1, 2019, which estimated annual water requirements at 19.25 acre-feet for the subdivision. The Engineer stated that according to their 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 can be provided without causing injury to decreed water rights and is expected to be adequate."

5. The District's Director of Engineering and Operations provided letters of commitment for Carriage Meadows South at Lorson Ranch Filing No. 2 dated January 11, 2019 and April 1, 2019. The January 11<sup>th</sup> letter addressed irrigation of community landscaping and stated that the District "commits to providing irrigation water to the above-mentioned subdivision" to include "2 irrigated acres or 5 SFE's. The water commitment is based on the recently revised Widefield standard of 0.35/AF/SFE and is 1.75 AF-year." The April 1<sup>st</sup> letter stated that the "District commits to providing water and sewer service to the above-mentioned subdivision" which includes 50 townhome lots and the "water commitment is based on the recently revised Widefield standard of 0.35 AF/SFE and is 17.50 AF-year."

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 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: The Applicant provided a *Water Demand and Wastewater Report for Carriage Meadows South at Lorson Ranch Filing No. 2 dated December 2018*, detailing the District's current water system. As stated in the Report, the District has a "current developed physical water supply of 5246 ac-ft of water per year and the current demand is 2248 ac-ft per year which is roughly 43% of the existing physical supply." With a proposed annual demand of 19.25 acre-feet and based on the current commitments of the District and the available 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, 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. The El Paso County Health Department 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: Kari Parsons, Planner III



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,

A handwritten signature in blue ink, appearing to read "Steve Wilson", is written over a horizontal line.

Steve Wilson, District Manager

