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January 25, 2021

SF-20-30 Glen at Widefield Filing No. 9B
Plat Amendment

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



FINDINGS AND CONCLUSIONS:

1. This is a proposal for the Glen at Widefield Filing No. 9B subdivision by Glen Investment Group No. VIII, LLC ("Applicant"), to replat Tract D, Filing No. 9, a 0.344-acre parcel, into 2 single family lots. Tract D was included in the Glen at Widefield East preliminary plan approved in 2016. The property is zoned RS-6000 (Residential Suburban).

2. The Applicant has provided for the source of water to derive from the Widefield Water and Sanitation District ("District"). Based on the Water Supply Information Summary, the total water supply necessary for this proposal is 0.70 acre-feet (0.35 acre-feet x 2 single family lots). Based on these figures, the Applicant must be able to provide a supply of 210 acre-feet of water (0.70 acre-feet/year x 300 years) to meet the County's 300 year water supply requirement. Since the District's water is considered annually renewable (see below), 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., LDC, "[w]ater provided from renewable ground water sources is considered to be annually renewable and, therefore, is considered to have a minimum life of three hundred (300) years." As detailed in the *District Water and Wastewater Report Annual Update* dated January 1, 2020 ("*Report*"), "[t]he system does not rely on any non-renewable water sources," therefore, it appears the proposed water supply is an annually renewable source and falls within the provisions of Section 8.4.7.C.1., and thus the proposed supply is considered to have a minimum life of 300

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years. The *Report* indicates that the District has “current Legal Water Supply Holding” estimated at 7,900 annual acre-feet. “The current Developed Physical Supply is 5271 annual acre-feet. The three year running average actual use is 2615 acre-feet which is roughly 48% of the existing available physical supply.”

4. The District’s General Manager provided a letter of commitment for the entire Glen at Widefield East Subdivision dated July 13, 2015, in which the District committed to providing water service to the entire subdivision of 595 residential lots, plus 1 small park with an annual water requirement of 235.17 acre-feet. The District Engineer provided a subsequent letter dated July 22, 2020 addressing this Filing No. 9 Tract D and stated that the District “commits to providing water and sewer service to the above mentioned subdivision per this letter.... The water commitment is for ‘The Glen at Widefield Subdivision Filing No. 9 Tract D’ being 2 Residential Lots and 0.70 acre-feet, is wholly included in previous ‘The Glen at Widefield East Subdivision’ commitment.”

5. In a letter dated January 13, 2021, the State Engineer reviewed the application to subdivide the 0.344 +/- acre parcel known as Tract D into 2 single-family residential lots. The State Engineer reviewed this matter based on information provided in the Water Supply Information Summary and the District’s letter dated July 22, 2020, which estimated water requirements at a total of 0.70 acre-feet/year for Glen at Widefield Filing No. 9 Tract D. The State Engineer stated that according to their records, “it appears Widefield has sufficient water resources to serve the proposed development” and further, “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.”

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: As indicated above, the Applicant provided a *District Water and Wastewater Report Annual Update* dated January 1, 2020, delineating the sources of the District’s water supply, which is based on surface water rights, renewable groundwater, and a mix of various sources. The *Report* notes that the District does not rely on any non-renewable water sources and that the District’s current Legal Water Supply Holdings are estimated at 7,900 annual acre-feet. The current Developed Physical Supply is 5271 annual acre- feet and the three year running average actual use is 2615 acre-feet which is roughly 48% of the existing available physical supply.” With a proposed annual demand of 0.70 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 for Glen at Widefield Filing No. 9B.

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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, the District's explanation that PFCs will not affect the quantity of the District's water supply, 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: Ryan Howser, Planner I

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37 Widefield Boulevard, Colorado Springs, Colorado 80911

RECEIVED

AUG 01 2016

El Paso County
Attorney's Office

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 blue ink signature of Steve Wilson, consisting of a stylized first name and a more legible last name.

Steve Wilson, District Manager

