



December 23, 2024

Ryan Howser, Project Manager  
El Paso County Development Services Department  
Sent via online portal at: <https://epcdevplanreview.com/Agencies/Home>

Re: Kettle Creek Estates Filing No. 2  
File #: VR246  
Part of NW1/4 of Sec. 28, Twp. 12S, Rng. 66W, 6<sup>th</sup> P.M.  
Water Division 2, Water District 10  
CDWR Assigned Subdivision No. 32422

Dear Ryan Howser,

We have received additional information concerning the above-referenced proposal to subdivide a 5.13-acre parcel into 2 single-family lots. The proposed source of water supply will be provided by one existing on-lot well and one proposed on-lot well with wastewater returning to on-lot septic disposal systems. This office previously issued a letter dated July 24, 2024 regarding this subdivision. This letter shall supersede those prior comments.

### **Water Supply Demand**

The proposed water requirement is estimated to be 0.72 acre-feet for both lots. The proposed well for Lot 2 will be completed into the Arapahoe aquifer and withdraw 0.44 acre-feet/year for use in a single-family residence, lawn and garden irrigation and animal watering. The applicant is proposing to continue use of the existing well with Permit no. 172655 for Lot 1 at an estimated rate of 0.28 acre-feet/year.

Well Permit no. was issued on June 30, 1993, pursuant to CRS 37-92-602(3)(b)(II)(A) as the only well on a residential site of 5.84 acres described as Lot 8, Block BE Filing Amended, Spring Crest Subdivision, El Paso County. The use of the groundwater from this well is limited to ordinary household purposes inside a single-family dwelling and the watering of the user's noncommercial domestic animals. The groundwater shall not be used for irrigation or other purposes. The well is permitted to be constructed into the Denver aquifer. A Well Construction and Test Report on file indicates that the well was drilled on February 12, 1997, to a depth of 460 feet with perforated casing from 320 feet to 460 feet.

### **Source of Water Supply**

The anticipated source of water is to be provided by on-lot wells producing from the Denver and Arapahoe aquifers. The well producing from the Arapahoe aquifer will operate pursuant to augmentation plans decreed by the Division 2 Water Court in Case No. 2023CW3045. The applicant has proposed to continue to utilize the well with permit no. 172655 pursuant to 37-92-602(3)(b)(IV) on Lot 1. The applicant may continue to utilize this exempt well so long as they continue to meet the requirements of the subsection for use on a single parcel.



According to the decree entered by the Division 2 Water Court in case no. 2023CW3045, the following amounts of water shown in Table 1, below, were determined to be available underlying the 5.13 acre property.

Table 1

Aquifer	Tributary Status	Volume (AF)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Denver	NNT	87.2	0.872	0.29
Arapahoe	NNT	227	2.27	0.75
Laramie-Fox Hills	NT	135	1.35	0.45
<b>Total</b>		<b>449.2</b>	<b>3.62</b>	<b>1.2</b>

\*Applicant reserved all available Denver Aquifer supplies to support pumping from exempt well. The total only accounts for Arapahoe and Laramie-Fox Hills waters.

The plan for augmentation decreed in Division 2 Water Court case no. 2023CW3045 allows for diversion of 0.50 acre-foot annually from the Arapahoe aquifer for a maximum of 300 years.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., “Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years.” Based on this allocation approach, the annual amounts of water decreed is equal to one percent of the total amount available as determined by Rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those amounts for a maximum of 100 years.

In the El Paso County Land Development Code, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

“-Finding of Sufficient Quantity - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years.”

The State Engineer’s Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County’s requirement as an allocation approach based on three hundred years, the annual estimated demand for rural lots being served by an on-lot well at the Kettle Creek Estates Filing No. 2 is 0.5 acre-feet as allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

**Additional Comments**

Should the development include construction and/or modification of any storm water structure(s), the Applicant should be aware that, unless the storm water structure(s) can meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR’s *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities* in Colorado, available online at: [https://dnrweblink.state.co.us/dwr/0/edoc/3576581/DWR\\_3576581.pdf?searchid=978a5a](https://dnrweblink.state.co.us/dwr/0/edoc/3576581/DWR_3576581.pdf?searchid=978a5a)

31-ddf9-4e09-b58c-a96f372c943d, to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.

### **State Engineer's Office Opinion**

Based on the above, and pursuant to CRS 30-28-136(1)(h)(l), it is our opinion that the proposed water supply can be provided without causing material injury to decreed water rights, and is **adequate**, so long as the plan for augmentation is operated according to its decreed terms and conditions.

Our opinion that the water supply can be provided without causing injury is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory **allocation** approach, for the proposed uses is greater than the annual amount of water required to supply the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 2 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decrees, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in the subject Division 2 Water Court cases were calculated based on estimated current aquifer conditions. For planning purposes the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for **allocation** due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply. Furthermore, that applicant will need to apply for, and obtain a new well permit issued pursuant to Section 37-90-137(4) C.R.S.

Please contact me at [Ivan.Franco@state.co.us](mailto:Ivan.Franco@state.co.us) or (303) 866-3581 x8243 with any questions.

Sincerely,



Ivan Franco, P.E.  
Water Resource Engineer

Ec: Permit no. 172655