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William Guman & Associates, Ltd.
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4-Way Ranch Joint Venture LLC
c/o Peter Martz
P.O. Box 50223
Colorado Springs, CO 80949
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Re: Waterbury PUD Development Plan, Preliminary Plan, and Final Plats for Filings 1 & 2

Dear Ms. Parsons:

This firm represents the Upper Black Squirrel Creek Ground Water Management District (“the UBS District”). Applicant, William Guman & Associates, Ltd., on behalf of 4-Way Ranch Joint Venture LLC, provided materials in support of its application for a PUD Development Plan, Preliminary Plan, a Water Sufficiency Finding, and Final Plat for Filings 1 and 2 of its proposed Waterbury subdivision development. Waterbury would be located within the UBS District’s boundaries and, as explained in the Applicant’s application, will consist of 201 single family lots on 61.9 acres. The UBS District reviewed the Applicant’s application materials and submits the following comments:

Water Service for Waterbury

Section 30-28-133(3)(d), C.R.S. requires counties to adopt regulations that require “adequate evidence that a water supply that is sufficient in terms of quantity, quality, and dependability will be available to ensure an adequate supply of water” for proposed subdivisions.

El Paso County requires, as part of every application for a final plat, a water resources report that includes “[p]roof of ownership or right of acquisition of use of existing or proposed water rights sufficient in quality, quantity and dependability to serve the proposed use including well permits, court decrees, well applications, export permits, etc..” *See El Paso County Land Development Code § 8.4.7(B)(3)(c)(i).* El Paso County specifies that “[n]o final plat will be approved without adequate proof of ownership or the right of acquisition or use of existing and proposed water rights.” *Id.*, § 8.4.7(B)(6).

Applicant has not demonstrated that there is an uncommitted water supply available to serve Waterbury’s demands. Applicant’s water resources report states that Waterbury will be served by the 4-Way Ranch Metropolitan District No. 2 (“4-Way Ranch Metro District”). *See Water Resources Report, § 1.0.* 4-Way Ranch Metro District, in turn, entered into a lease with 4-Way Ranch Partnership and Spring Creek LLC for water from nontributary wells in the Laramie-Fox Hills and Arapahoe aquifers pursuant to Determination Nos. 510-BD and 511-BD. *See id.*, Ex. 4. Determination No. 510-BD allocated a total of 242,900 acre-feet from the Laramie-Fox Hills aquifer and Determination No. 511-BD allocated a total of 261,500 acre-feet from the Arapahoe aquifer. *Id.*, Ex. 3. According to the lease agreement, the 4-Way Ranch Metro District will lease a total of 159,000 acre-feet of water allocated under Determination No. 510-BD and a total of 80,100 acre-feet of water allocated under Determination No. 511-BD. *Id.*, Ex. 4.

Based on the information Applicant has provided, it is unclear whether there is an uncommitted source of water available to serve Waterbury. First, the lease attached to the water resources report states that 800 acre-feet per year of supply is available to 4-Way Ranch Metro District. *Id.*, Ex. 4. However, the report itself states that 4-Way Ranch Metro District only has 610 acre-feet per year of supply available. *Id.* at § 1.0.b. Second, some of the water allocated under Determination No. 510-BD has been committed to serve the Grandview Reserve Metropolitan District. Attached as **Exhibit A** to this letter is a purchase and sale agreement for 131,250 acre feet from Determination No. 510-BD to 4-Site Investments LLC, an entity apparently affiliated with or contractually obligated to the Grandview Reserve Metro District. The combined commitments of Determination No. 510-BD to Grandview Reserve Metro District and 4-Way Ranch Metro District exceed the total determination amount of 242,900 acre feet. In addition, it is unclear whether any portion of Determination No. 511-BD has been committed to other districts or developers. Ultimately, Applicant has not provided clear evidence of an uncommitted water supply available to serve Waterbury’s demands.

Physical Availability of Water Supply

In addition, Applicant’s water resources report should address the issue of overlapping cones of depression within the Arapahoe and Laramie-Fox Hills aquifers in the area of the Waterbury development. There is intensive bedrock aquifer use in the area because of extensive well withdrawals from Meridian Metropolitan District, Paint Brush Hills Metropolitan District, Woodmen Hills Metropolitan District, and 4-Way Ranch Metropolitan District. These overlapping cones of depression may result in less water physically available for withdrawal from Waterbury’s proposed sources.

Wastewater

El Paso County requires applicants for a final plat to demonstrate that wastewater service will be provided to the proposed development. Specifically, El Paso County requires “a Letter of Commitment from the wastewater provider proposed for service, which includes information indicating that the land has been included into the boundaries of the provider's service area, or that contractual arrangements for service have been met.” *See* El Paso County Land Development Code § 8.4.8(E)(2)(c). Applicant’s wastewater report indicates that wastewater service will be provided to Waterbury from Grandview Reserve Metro District, which in turn will enter into an intergovernmental agreement with Cherokee Metro District to provide wastewater treatment to the Grandview Reserve Metro District. *See* Wastewater Report, Ex. 3. Applicant’s wastewater report includes an unsigned document from 4 Way Ranch Joint Venture LLC stating that Grandview Reserve Metro District will commit to serving Waterbury once approved by El Paso County and once it enters into this agreement with Cherokee Metro District. *Id.* This letter does not satisfy El Paso’s requirement for a firm commitment from a wastewater service provider.

The UBS District’s Regulations on Large Capacity Well Use in Subdivisions

The wells Applicant proposes for its water supply must comply with the UBS District’s rules and regulations. The UBS District’s Rule 17.B. limits withdrawals from large capacity wells in subdivisions. Specifically, Rule 17.B. requires that the production of all wells supplying the subdivision shall not exceed the product of the number of single family residences, single condominium units, apartment units, single units within a multiple-dwelling unit or equivalent within the subdivision by 0.5 acre feet per year. And further, Rule 17.B. states that well production must be limited to the rate or amount set forth in the determination of water rights issued for the well by the Colorado Ground Water Commission. Applicant’s application includes no information on Applicant’s intended compliance with this rule.

Underdrains

Due to local high ground water and soil conditions in the area of Waterbury, structures developed in Waterbury may need underdrains to capture and drain water that would otherwise flood those structures. Any underdrains will require a large capacity well permit and those well permits will require a replacement plan in compliance with Designated Basin Rule 5.6. Any such replacement plan should meet the requirements of Designated Basin Rule 5.6 by replacing any groundwater collected in any of the underdrains that is discharged to the surface and for the evaporation and ET associated with the exposure of groundwater caused by the underdrain. Applicant’s application includes no information on whether underdrains will be required and, if so, how Applicant intends to meet the requirements of Designated Basin Rule 5.6.

The UBS District reserves the right to provide additional comments at a later date founded upon information not readily ascertainable from the above-referenced application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mirko L. Kruse".

Mirko L. Kruse
for
TROUT RALEY

cc: UBSCGWMD Board of Directors