Kimley»Horn

November 9, 2026

Cindy Thompkins/Jeff Liljegren
Town Clerk
556 Colorado Avenue
Calhan, CO 80808

RE: ***North Tree Annexation Response to El Paso County Review for Town of Calhan***

Planning Division

1. **The project proposes to annex 95 acres of land from unincorporated County to the Town of Calhan. Please provide an Annexation Impact Report meeting Chapter 10.1.4. Annexation Impact Report.**

   Submittal. A copy of the annexation impact report together with a copy of the municipality's plan for the area as required in C.R.S. § 31-12-105(1)(e)(I), shall be filed with the PCD as the designated representative of the BoCC at least 20 days prior to the annexation hearing. The 5 copies of the municipality's plan for the area may be waived if the plan is part of a larger plan developed by the municipality and such plan has been previously submitted to and reviewed by the County.(B)Annexation Impact Report Requirements. The annexation impact report, if required to be submitted, shall include the following information, at a minimum:

- ***Comment Response:*** Annexation impact report will be submitted by the Town of Calhan per statutory requirements, including items a-f below.

a) A map or maps of the municipality and the adjacent territory showing present and proposed boundaries of the municipality in the vicinity of the proposed annexation, the present streets, water mains, sewer interceptors and outfalls, and other utility lines and ditches in the vicinity of the proposed annexation and the existing and proposed land use patterns in the areas to be annexed.

b) A copy of any draft or final pre-annexation agreement, if available.

c) A statement setting forth the plans of the municipality for extending to or otherwise providing for municipal services.

d) A statement setting forth a method under which the municipality plans to finance the extension of municipal services.

e) A statement identifying existing districts within the area to be annexed.

f) A statement regarding the effect of the annexation upon local public school district systems, including the estimated number of students generated and the capital construction required to educate such students.

2. **Please note this request for Annexation will be presented to the Board of County Commissioners; please provide the expected date the application will be heard by the Calhan Town Council.**

- ***Comment Response:*** This annexation will be heard by the Calhan Town Council on December 7th.

Development Plan Comments:

1. **No buffering from the existing A-35 (Agricultural) zoned parcels is proposed on the western and northern boundaries. A transition of density from rural-agricultural land uses to the proposed urban land uses, as depicted on the development plan, should be incorporated to the design to ensure compatibility. At a minimum, a zone boundary buffer should be provided.**
   - ***Comment Response***: As part of the North Tree Annexation application submitted to the Town of Calhan, the applicant acknowledges the need to establish appropriate land development transitions and buffers as development proceeds. Following annexation approval, the applicant would submit development plan applications in accordance with the Town's development code criteria. The current application also recognizes the Rural Center land use type established in the El Paso County Master Plan and the need to provide appropriate transitions in development intensity and land use, along with landscape buffers, through future development plan applications and filings. The revised General Development Plan shows a transition buffer along the west and north boundaries as a placeholder. Because Calhan has no zoning code, the project will use a PUD, whose flexibility allows it to provide this buffer. A note on the plan states that the applicant will work with the County to provide the buffer, whether through larger lots, larger setbacks, specific home layouts, or other types of appropriate buffers.
2. **The Your El Paso County Master Plan identifies this parcel as a Rural Center.**
   - ***Comment Response:*** Noted, thank you.
3. **Additionally, the Plan identifies this are as an Area of Change; New Development.**
   - ***Comment Response:*** Noted, thank you.
4. **The site is not within a Key Area or a Military Buffer Zone.**
   - ***Comment Response:*** Noted, thank you.
5. **A portion of the property may be within aviation Part 77 surfaces which may be impacted by aircraft.**
   - ***Comment Response:*** Noted, thank you. We will address this with Preliminary Plat requirements.
6. **County Planning and DPW staff would like the opportunity to review the future zoning and subdivision entitlements submitted to Calhan, not limited to, the drainage and traffic reports.**
   - ***Comment Response:*** Noted, future zoning and subdivision entitlements will be sent to County Planning and DPW staff.

Department of Public Division

1. **County's involvement with McClasky Road – an unimproved county road on the north edge of the proposed annexation and development – What needs to be discussed with the County in improving this road with the suggested development?**

   This road should be annexed along with the property parcels. Normally, this would put it under review, ownership and maintenance of the city. However, it appears

the county continues to maintain McClasky even as it runs through Calhan, but design and ownership would be through Calhan. ROW for the road will need to be officially dedicated with the project plat. Improvements to the road would be determined when the project is submitted for official review.

A traffic engineer would prepare a traffic report, and based on the traffic determined for the project, during short- and long-term range, would dictate what improvements are needed (turn lanes, road classification, etc.). The traffic engineer, if following county criteria, would need to follow Chapter 2 and appendix B of the Engineering Criteria Manual. Note the current classification of McClasky Road is Rural-Major collector and the trigger for upgrading from a gravel to paved roadway is 200 daily trips.

Please also note that on the west side of the property, ROW for Eurich Road continues south of McClasky Road and will need to be preserved. The current layout shows lots extending all the way to the property line. Lots will need to be moved to the east to preserve the ROW.

- ***Comment Response:*** Kimley-Horn consulted the Public Works Engineer. These comments are repeated from the first round, and no further comments are expected until the Annexation Impact Report is posted. The General Development Plan preserves the ROW, as the County requested.

2. **Whether a new bridge will need to be replaced on McClasky Road per the County Transportation plan, relative to this proposed development . . .**

   County transportation plan does not look at drainage structures. The 2024 Major Transportation Corridor Plan (MTCP) does show N Calhan Highway from US 24 to Pain Mine Road as being upgraded to a 2-lane Rural-Minor collector. It appears that the current box culverts under McClasky Road may be designated to be upgraded in the MTCP. However, the MTCP does not provide any information about this. As the possible drainage structure is listed as a county improvement and the proximity between the culverts and the project, it is unlikely that this project would trigger the upgrade project. If, however, upon actual submittal of the project with a drainage report or traffic report, it is determined that the project does trigger the structure replacement, whether through drainage flow increases or additional traffic impacts over the structure, there would likely be some sort of reimbursement available. That would be a bigger conversation to be had once actual plans have been provided for the overall project to be reviewed.

- ***Comment Response:*** KH coordinated with the Public Works Engineer. These comments are repeats from the first round and they have no further comments until the Annexation Impact Report is posted.

3. **The south edge of the parcel that would be annexed is adjacent the historic Rock Island R.R. row, where the county has envisioned a regional trail in your transportation plan. Are there opportunities to partner with county parks and trails to extend the Rock Island Regional bike trail here from Peyton?**

   I will leave this question to be answered by our Parks and Recreation department.

- ***Comment Response:*** KH coordinated with the Public Works Engineer. These comments

are repeats from the first round and they have no further comments until the Annexation Impact Report is posted. 2022 El Paso County Parks Master Plan shows the Rock Island Trail within the East Highway 24 CDOT right-of-way. The trail is not impacted by the project, and no park land or trail easement dedications are anticipated as the project moves forward.

4. **We envision this applicant will most likely need to process an annexation, a rezoning (PUD most likely), and create a Preliminary Plan before any platting, filing, or permitting would occur on this proposed development. Could you please inform us of what County would want to comment on specifically with each of these entitlement processes so that we have clear expectations of what should be considered by the county with each entitlement process? If drainage matters when would you comment, if hazard mitigation matters when would you comment . . . etc.**

   At the zoning application, the county would be begin looking at traffic, ensuring accesses meet spacing requirements, seeing how much traffic is generated and begin the process of determining any improvements to existing roads and construction/classification of new roads. At the PUD or preliminary plan stage, we would begin to look at the drainage for the project, determining drainage flows, project is graded in such a fashion that flows can be treated by water quality/detention pond, # of ponds needed, etc. With the final plat, the drainage and traffic will be finalized and all design elements determined. This will dictate the construction drawings that will be part of a final plat submittal.

   Even with McClasky being annexed into the Town of Calhan, prior to the town limits, McClasky Road is a county road. El Paso County would provide an Outside Agency Review (OAR) for the project applications. With these submittals, the County would look at the impacts to the County portion of the road, as well as drainage impacts to the county storm infrastructure. Based on these items, EPC may make requests for improvements to roads or storm facilities as needed. However, these items would not be known until design and reports have been submitted for review and comments.

   Please note that a private easement and agreement will need to be granted by the current land owner where the WQ/detention pond is being proposed, since it is not located on the project property.

- ***Comment Response:*** KH coordinated with the El Paso County Public Works Engineer, who had not received the updated General Development Plan showing the on-site stormwater pond and has no further comments. As the County indicated, detailed engineering will be provided at the Preliminary/Final Plat stage. Any County improvements will be determined then, based on the traffic impact study and drainage report, which will establish whether the box culverts/bridge or other County improvements are required.

EPC Parks Department

1. **UPDATE: Staff received communication from the applicant in which the applicant offered to work with El Paso County Parks to construct the Rock Island Regional**

Trail from Peyton to Calhan. Due to the fact that the 2022 master planned alignment of the Rock Island Regional Trail is NOT impacted by this project, that the current alignment is located within East Highway 24 CDOT right-of-way, and that planning and construction costs would be prohibitive, EPC Parks cannot enter into a Regional Trail Agreement (RTA) with the applicant for the construction of the regional trail. At this time, the following previously-submitted comments are still valid for this project going forward:

The 2022 El Paso County Parks Master Plan shows no impacts to existing or proposed parks, trails, or open space related to this annexation. As such, so park land or trail easement dedications will be necessary as this project moves forward. If annexation does not take place, this high-density residential development will be subject to EPC Parks agency review, including the review of allocated open space and neighborhood park lands, and calculation of regional and urban park fees, which would be applicable at time of the recording of the final plats. Annexation applications do not require endorsement from the EPC Park Advisory Board, so as such, these comments are being provided administratively. Thank you!

- ***Comment Response:*** Acknowledged. The 2022 El Paso County Parks Master Plan shows the Rock Island Trail within the East Highway 24 CDOT right-of-way. The trail is not impacted by the project, and no park land or trail easement dedications are anticipated as the project moves forward.

TOWN OF CALHAN, COLORADO REFERRAL REVIEW LETTER

(Updated 9/16/2026)

September 16, 2026

Will Vandergriff
Smith Land Development & Co., LLC
29415 Calhan Place Calhan,
CO 80808

RE: Referral Review Letter | Submittal_02

Project Name: North Tree Annexation Application

Dear Mr. Vandergriff,

This letter is to inform you that the relevant referral agencies have completed, or are in the process of completing, their review of your second submittal, North Tree Annexation Application Submittal_02. The comments and issues identified during this review process are compiled below, organized by agency in the same order as the Submittal_01 Referral Review Letter for ease of reference.

The Town requests that you submit a third round of application materials, Submittal_03, formally responding to each comment identified below, including items outstanding from Round 2 and any newly identified in this round. Please address each point directly in the "Applicant's Response" section provided at the end of each set of comments, and revise plans, reports, or other supporting documentation as needed to reflect your response. Your detailed response will be crucial for the continued processing of your application.

This application is actively being reviewed and processed according to Town Code per Section 15.04.050, Review Process, and Section 15, Article 11, Annexations. The referral review process will continue until all comments and issues have been addressed so that town staff can show that the application complies with the Town's Code, any relevant El Paso County requirements, and Colorado statute.

A number of referral agencies had not submitted Round 2 comments as of the date of this letter. Those agencies are noted below as outstanding, with their Round 1 position carried forward for your reference in the interim. If comments are received from these agencies after this letter is issued, they will be forwarded to you separately for response in Submittal_03 or a future submittal round, and this review process will remain open until all agencies have reported.

Instructions for Applicant

- Review Each Comment: Carefully read through each comment provided by the reviewing agencies.
- Provide a Detailed Response: Respond next to “Applicant's Response:” with a thorough and clear response. Explain how you will address the identified issue or provide any necessary clarification(s).
- Resubmit the complete package as Submittal_03: If your response requires revised plans, reports, or other documentation, please reference them and attach them with your submission.
- Complete and Return: Email or mail this completed letter and the associated resubmittal package to jeff.liljegren@hrgreen.com and townclerk@calhan.co.

Please do not hesitate to contact me if you have any questions or require clarification on any of the comments.

Sincerely,

Jeff Liljegren, AICP Town
Planning Consultant cc: Cindy
Tompkins, Town Clerk Jeff
Parker, Town Attorney

REFERRAL AGENCY COMMENTS

Calhan/Town Attorney

Jeff Parker / jhparker@hpwclaw.com — Round 1: 9/30/2025 — Round 2: outstanding as of 9/11/2026

Round 1 Comment(s), Summary:

Legal review memorandum addressing the Annexation Map approval signature line, public land dedication under Section 15.11.010(C), water demands, water rights, and well site information, and Tract A size and future well operations.

Applicant's Round 1 Response: Kevin Kofford, PE, Kimley-Horn, responded point by point on 8/7/2026: the Annexation Map was revised to add a Director of Public Works signature line; revised parkland dedication calculations were provided per Ordinance 2026-12; the Preliminary Utility Report and Developer's Water Attorney correspondence were cited on water rights; and final Tract A size and well configuration were deferred to the Preliminary Plat stage.

Round 2 Status: No independent Round 2 comments have been received from the Town Attorney as of the date of this letter confirming whether the Applicant's Response resolves the Round 1 legal review items. If comments are received, they will be shared with you separately, for response in Submittal_03, or a future submittal round, whichever occurs next.

Staff Note: *Staff recommends the Town Attorney confirm two items specifically before the substantial compliance record closes: (1) whether the revised Petition for Annexation now satisfies the statutory allegation requirements of C.R.S. §§ 31-12-104 and 31-12-105, and (2) whether the 1993 Special Warranty Deed provided in response to the title commitment request satisfies the checklist requirement for a current vesting deed or title commitment, given that document conveys the railroad corridor strip to Raymond and Louise Balsick, not to Smith Land Development & Co., LLC, and is not dated within 30 days of Submittal_02.*

Applicant Response: The Applicant was able to provide a Warranty Deed that satisfied the comment from the Town Attorney. See the attached email correspondence.

Calhan/Water Attorney

Ashley Zahedi and Kate Bosh / Curtis, Justus and Zahedi, LLC ("CJZ") — Round 1: 9/30/2025 — Round 2: 9/11/2026, FINAL

Supporting Documents:

Round 2 Referral Response letter, CJZ, 9/11/2026 (final)
Redlined Water Resources Agreement, CJZ, 9/11/2026 (final, not approved by the Town)
Moore Engineering, Inc. dba Lytle Water Solutions, Project No. 31870, technical letter ("Moore/LWS Letter"), September 11, 2026 (final), with Figures 1 and 2

Round 1 Comment(s), Summary:

Statement of Water Rights, Groundwater Consent Agreement under Section 14.11.060, water supply and demand evaluation, water rights dedication requirements, Water Resource Agreement, proposed well on Tract A, and additional water infrastructure requirements.

Applicant's Round 1 Response: Kevin Kofford responded on 8/7/2026 relying on the Town's Laramie Fox Hills well figures (325 acre-feet supply, 80 acre-feet current use), a proposed 96 acre-foot water rights dedication, and a water model in progress with Moore Engineering.

Round 2 Comments:

CJZ's final Round 2 letter concludes the dedicated water supply, once the Town's 300-year planning standard under Ordinance 2026-12 is applied and the Laramie Fox Hills aquifer is excluded due to conflict with the

Town's own pre-Senate Bill 213 well rights (Permit 9691-F-R), supports approximately 62 single family equivalents from the Denver and Arapahoe aquifers alone, not the 467 proposed. The Moore/LWS Letter confirms this figure independently.

A current, formal title opinion is now expressly required before the Town can make a completeness determination, citing Town Code Section 14.11.090. A chain of title letter alone, such as the Applicant's Water Review Letter from Fairfield and Woods, does not satisfy this requirement; that letter expressly disclaims any opinion on sufficiency or title.

Demand was understated in the Applicant's Preliminary Utility Report, which used 0.25 acre-feet per SFE and 2.46 acre-feet per irrigated acre rather than the Town's adopted 0.35 and 2.5 standards under Ordinance 202612. Recalculated at the Town's standard, total demand for 467 units is approximately 167.5 acre-feet per year, subject to change once total irrigated acreage and parkland demand are quantified, which CJZ states must occur up front, before closing.

Water conservation measures are now confirmed as a Town Code requirement of the water demand evaluation under Section 14.11.070, not an optional item; a reuse plan remains at the Applicant's option. No conservation or reuse plan has been provided to date.

The well site must be at least 1.5 acres under Section 14.11.040(C), configured for full ingress and egress and compatible with deep bedrock well drilling, with Town approval required before any site is accepted. This conflicts with the smaller well site shown in the Applicant's General Development Plan.

On who bears responsibility for the Colorado Ground Water Commission determination: the Town Code places this obligation on the Applicant by default under Section 14.11.080(A). The Town retains sole discretion under Section 14.11.080(C) to instead accept unadjudicated water, which may be necessary if Denver and Arapahoe rights are combined with the Town's own supply in a joint wellfield. CJZ states the Town cannot agree to take on the cost or obligation of constructing the wells themselves regardless of which party handles the Commission filing.

The Applicant's proposed $1,500 per acre-foot fee-in-lieu rate is expressly rejected. Acceptance of any fee-inlieu remains entirely at the Town's discretion.

The Town's existing infrastructure can serve approximately 71 additional homes before improvements are required at the Applicant's expense. CJZ also notes it may not agree with the Applicant's interpretation of the Moore/LWS Letter's 325 acre-foot availability figure and recommends this be confirmed directly with Moore/LWS.

Five critical deficiencies remain: water supply supports only approximately 62 SFEs, not 467; title and ownership of the water rights is unresolved; no conservation or reuse plan has been proposed; total irrigated acreage and parkland demand has not been quantified; and no well site has been identified.

Staff Note: *This is the most consequential item in the Submittal_02 record and should lead Board and Committee discussion. The redlined Water Resources Agreement is expressly not approved by the Town and reflects recommended changes only. The reimbursement and backup-supply mechanism discussed internally, to apply if the Town exercises its Section 14.11.080(C) discretion to accept unadjudicated water, is not yet written into the Agreement itself and should be added before this proceeds further. The Redlined WRA also leaves the per-aquifer volumetric figures and Smith Land's ownership representation blank, pending resolution of the water supply and title issues above, rather than locking in numbers that have not yet been confirmed.*

Applicant Response: Fairfield and Woods prepared a separate comment response letter that addresses CJZ's comments and the questions listed above. In addition, the General Development Plan now includes a 1.5-acre well site, located on favorable grades and topography and accessible from three sides.

Upper Big Sandy Ground Water Management District

Scott P. Krob / Krob Law Office, LLC — First comment: 11/11/2025 (supplemental to Submittal_01) — Round 2: 9/11/2026

Round 1 Comment(s), Summary:

The District requested a full water study addressing demand at full build-out, a financing mechanism, and a plan showing demand can be met without depleting the Basin's aquifers or injuring existing appropriators, including approval of a replacement plan through the District and the Ground Water Commission for any municipal or commercial well. The District stated its concerns echo the Town Water Attorney's September 30, 2025 review.

Applicant's Round 1 Response: Kevin Kofford responded on 8/17/2026, relying on the Town's Laramie Fox Hills well figures and the 96 acre-foot dedication figure, and stated a water model was being developed to run concurrently with the annexation process.

Round 2 Comments:

The District's Round 2 letter states its concerns have not been addressed. It identifies a recurring pattern across Submittal_02's own materials of future-tense commitments rather than completed items: water rights determination from the Ground Water Commission not initiated, infrastructure improvements and supporting documentation described as forthcoming, the Groundwater Consent Agreement not yet finalized, and the water model still in progress.

The District states that despite the Applicant's August 17, 2026 letter representing that it would continue working collaboratively with the District, neither the developer nor its engineer has actually contacted the District.

The District raises the Town's newly adopted 300-year planning standard and asks directly how it affects the water demand and supply analysis, and separately raises water quality impact on the aquifer, a concern not otherwise addressed in Submittal_02.

The District recommends the Town not proceed with annexation until these items are resolved, and reserves the right to provide final comments until all documents and tasks are complete. The letter closes by asking the Town to advise how and when the Applicant will address the District's concerns.

Applicant Response: A separate comment response letter prepared by Fairfield and Woods has been provided to the Upper Big Sandy Ground Water Management District

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Big Sandy Water District

Tracy Doran, District Manager — Round 1: 9/30/2025 — Round 2: outstanding as of 9/11/2026 **Round 1 Comment(s), Summary:**

Concerns regarding over-appropriation of the Big Sandy alluvial basin, the non-rechargeable status of the Denver Basin, and a request that the Town require the developer to demonstrate wet water, not paper water, from the deeper aquifers.

Applicant's Round 1 Response: An inline response within the Submittal_01 compiled letter cited the Moore Engineering figure of approximately 325 acre-feet per year available from the Laramie Fox Hills Aquifer and the reimbursement agreement covering off-site improvements.

Round 2 Status: No independent Round 2 comments have been received from Big Sandy Water District as of the date of this letter. If comments are received, they will be shared with you separately, for response in Submittal_03, or a future submittal round.

Staff Note: *This agency is distinct from the Upper Big Sandy Ground Water Management District above. Its concerns should not be treated as resolved by that District's separate Round 2 review, since Big Sandy Water District's concern is specifically about impacts to the Big Sandy alluvial basin, a different water source than the Denver Basin aquifers CJZ's letter addresses.*

Applicant Response: Noted.

El Paso County / Planning Division

Justin Kilgore / Kari Parsons, Principal Planner — Round 1: 9/4/2025 – 10/14/2025 — Round 2: Kari Parsons, Principal Planner

Round 1 Comment(s), Summary:

Annexation Impact Report and notice requirements under C.R.S. § 31-12-108 and 31-12-108.5, buffering from adjacent A-35 zoned parcels, the Future Land Use designation of the parcel as a Rural Center and Area of Change, aviation Part 77 surface impacts, and a request to review future zoning and subdivision entitlements including drainage and traffic reports.

Applicant's Round 1 Response: The Applicant acknowledged the items, confirmed a 15-foot landscape buffer would be provided along the western boundary consistent with the General Development Plan, and stated the County would be included in future Preliminary and Final Plat submittals.

Round 2 Comments: Kari Parsons' formal Round 2 letter, County File ANX257, dated September 16, 2026, reiterates the Annexation Impact Report requirement, now citing County Code Chapter 10.1.4 directly rather than only the state statute, and specifies the report's minimum content: a map of present and proposed boundaries and utility infrastructure, a copy of any pre-annexation agreement, a statement on the plan for extending municipal services and financing that extension, a statement identifying existing districts within the area, and a statement on the annexation's effect on the local public school district, including estimated students generated and capital construction required. The County also asks for the expected date the application will be heard by the Calhan Town Council.

On the development plan itself, the County confirms no buffering is proposed from the adjacent A-35 zoned parcels on either the western or the northern boundary, and recommends a zone boundary buffer providing a density transition be incorporated into the design. The County reconfirms the Rural Center Future Land Use designation and identifies the parcel as falling within an Area of Change: New Development designation. The site is confirmed not to fall within a Key Area or Military Buffer Zone. Part 77 aviation surface impacts are reconfirmed as a possible concern. The County restates its request to review future zoning and subdivision entitlements, including drainage and traffic reports, and asks that the Annexation Impact Report be sent to Ms. Parsons directly when available.

Staff Note: *Two items need direct attention. First, the buffering finding covers both the western and northern boundaries, while the Applicant's Round 1 Response addressed only the western boundary; the General Development Plan should be revised or the Applicant should be asked to address the northern boundary specifically. Second, the Area of Change: New Development designation is new to this record and should be reconciled with the Rural Center designation and the FLUM commercial corridor discussion elsewhere in this letter. The Annexation Impact Report content list, particularly the required statement on effect to the local public school district, ties directly to the outstanding Round 2 response from Calhan School District RJ1 and should be coordinated with that agency before the report is finalized. Ms. Parsons has asked that the Annexation Impact Report be sent to her directly once available.*

Applicant Response: See the separate comment response letter for correspondence with El Paso County

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El Paso County / Wildland Fire and Program Manager

Roland Peterson — Round 1: 10/14/2025 (no comments) **Round 1 Comment(s), Summary:**

El Paso County Fire Safety and Wildfire Mitigation had no comments on the annexation, noting the property will be the responsibility of the Calhan Fire Protection District.

Round 2 Status: Due to a “no comment” response in Round 1 this commenter’s response file is resolved for this application.

Applicant Response: Noted.

El Paso County / Department of Public Works Division, Engineering

Charlene Durham, P.E. — Round 1: 10/13/2025 — Round 2: Charlene Durham, P.E., 9/16/2026 **Round 1 Comment(s), Summary:**

McClasky Road right-of-way dedication and improvement standards, preservation of Eurich Road right-ofway, traffic report and Engineering Criteria Manual compliance, possible bridge or box culvert replacement, and a private easement requirement for any off-site stormwater facility.

Applicant's Round 1 Response: The Applicant confirmed one-half width of McClasky Road would be annexed with a 30-foot right-of-way dedication along McClasky and Eurich Road, deferred detailed engineering to the Preliminary/Final Plat stage, and later confirmed the stormwater detention facility was relocated to the interior of the site, removing the need for an off-site easement.

Round 2 Comments: Charlene Durham's formal Round 2 letter, part of Kari Parsons' September 16, 2026 consolidated County response, addresses McClasky Road, Eurich Road, the box culvert, the Rock Island Regional Trail, and the entitlement review process.

On McClasky Road, the County confirms it should be annexed with the parcel, and that the County will likely continue maintaining it even as it runs through Town limits, while design and ownership pass to Calhan. Right of way must be dedicated with the project plat, with improvements determined at official submittal review. A traffic engineer following County criteria must comply with Chapter 2 and Appendix B of the County's Engineering Criteria Manual. Notably, the County states McClasky Road's current classification is Rural-Major Collector, with the trigger for upgrading from gravel to paved roadway set at 200 daily trips. This is the County's own classification, distinct from the Town Code classification of Collector Street already established in this letter, and confirms the term Derrik Mills originally used, Major Commercial Collector, does not match the County's own terminology.

On Eurich Road, the County confirms its right of way continues south of McClasky Road on the west side of the property and must be preserved. The current layout shows lots extending all the way to the property line; lots will need to be moved east to preserve this right of way.

On the McClasky Road box culvert, the County's transportation plan does not address drainage structures directly, but the 2024 Major Transportation Corridor Plan shows N Calhan Highway from US-24 to Paint Mine Road being upgraded to a two-lane Rural-Minor Collector, and the existing box culverts under McClasky Road may be designated for upgrade under that plan, though the plan does not provide detail. The County considers it unlikely this project would trigger that upgrade given proximity, but if the drainage or traffic report shows otherwise, a reimbursement conversation would follow once actual plans are submitted.

On the Rock Island Regional Trail, the County defers to EPC Parks, whose response is addressed separately in this letter.

On the entitlement process, the County expects annexation, rezoning through a PUD, and a Preliminary Plan before platting, filing, or permitting. At the zoning stage, the County reviews traffic, access spacing, trip generation, and road improvement and classification questions. At the PUD or Preliminary Plan stage, the County reviews drainage flows and detention design. At final plat, drainage and traffic are finalized. Even after McClasky Road is annexed, the County remains a reviewing agency for the county portion of the road and county storm infrastructure through its Outside Agency Review process, and may request improvements once design and reports are submitted.

On the stormwater detention facility, the County states a private easement and agreement will need to be granted by the current landowner where the water quality and detention pond is proposed, since it is not located on the project property. This directly contradicts the Applicant's Round 1 Response, which stated the detention facility had been relocated to the interior of the site to remove the need for an off-site easement.

Staff Note: *The detention pond easement contradiction is the most consequential item in this response and should be resolved before this item is treated as closed: either the pond has been relocated on-site as the Applicant represented in Round 1, or an off-site easement is required as the County states, and the record cannot support both. The Eurich Road right-of-way and lot layout issue is a concrete site plan defect that should be corrected on the General Development Plan rather than deferred to a later stage. The County's confirmation that McClasky Road's actual classification is Rural-Major Collector, not Major Commercial Collector, does not change the Town Code Collector Street classification already adopted in this letter, but should be reflected accurately wherever the County's own terminology is cited.*

Applicant Response: See the separate comment response letter to the County. Kimley-Horn coordinated with the El Paso County Public Works Engineer, who had not received the updated General Development Plan showing the on-site stormwater pond and indicated no further comments. As the County noted, detailed engineering will be provided at the Preliminary/Final Plat stage, and any County improvements will be determined then. The traffic impact study and drainage report will establish whether improvements to the box culverts/bridge or other County facilities are required.

El Paso County / Department of Public Works Division, Stormwater

Mikayla Hartford, P.E. — Round 1: 10/13/2025 — Round 2: Mikayla Hartford, P.E., 9/16/2026 **Round 1 Comment(s), Summary:**

Request that final design plans and a drainage report be provided for County review of potential impacts to County jurisdiction if the parcel is annexed and site development proceeds.

Applicant's Round 1 Response: The Applicant acknowledged and committed to submitting a drainage report with the Preliminary/Final Plat.

Round 2 Comments: Mikayla Hartford reiterates the Round 1 request: if the parcel is annexed and site development proceeds, final design plans and a drainage report must be provided for County review of potential impacts to County jurisdiction.

Applicant Response: Noted.

El Paso County / Park Planning

Round 1: Jason Meyer, 10/1/2025, and Ashlyn Mathey, Parks Planner, 10/13/2025

Round 2: Ross A. Williams, Senior Parks Planner, 8/24/2026, and Ashlyn Mathey, 9/11/2026 **Round 1 Comment(s), Summary:**

No substantive comments on the application. The 2022 El Paso County Parks Master Plan showed no impacts to existing or proposed parks, trails, or open space, so no park land or trail easement dedications were required. The Rock Island Regional Trail question, raised separately, was noted as not impacted since the master-planned alignment sits within the East Highway 24 CDOT right-of-way.

Applicant's Round 1 Response: The Applicant acknowledged and offered to work with EPC Parks on a Regional Trail Agreement for the Rock Island corridor.

Round 2 Comments:

Ross Williams confirms Round 1 comments were answered and satisfied, but raises a new comment that both neighborhood parks in the current plan sit in the southern section of the site and that a centrally located park would better serve the development.

Ashlyn Mathey's separate Round 2 submission reiterates that no park or trail easement dedication is required, and confirms EPC Parks declined the Applicant's proposed Regional Trail Agreement since the current Rock Island Trail alignment sits within CDOT right-of-way and is not impacted by this project.

Round 2 Update: *EPC Parks Department, Ashlyn Mathey, Parks Planner, 9/14/2026*

EPC Parks provided a further update stating that, because the 2022 master-planned alignment of the Rock Island Regional Trail is not impacted by this project, the current alignment sits within the East Highway 24 CDOT right-of-way, and planning and construction costs would be prohibitive, EPC Parks cannot enter into a Regional Trail Agreement with the Applicant for construction of the regional trail. EPC Parks reconfirmed that its previously submitted comments remain valid: the 2022 Master Plan shows no impacts to existing or proposed parks, trails, or open space related to this annexation, so no park land or trail easement dedications will be necessary as this project moves forward under annexation. EPC Parks also noted that if annexation does not take place, this high-density residential development would instead be subject to EPC Parks agency review at the county level, including review of allocated open space and neighborhood park lands and calculation of regional and urban park fees applicable at the time of recording of the final plats. Annexation applications do not require endorsement from the EPC Park Advisory Board, so these comments are being provided administratively.

Staff Note: *Two separate submissions were received from this agency; both are retained here rather than treated as duplicates. A further administrative update from EPC Parks Department on 9/14/2026 declines the Regional Trail Agreement on both alignment and cost grounds and adds a point worth flagging for the Applicant and the Board: remaining outside Town annexation would subject this development to EPC Parks agency review at the county level, including regional and urban park fee calculation at final plat, an outcome the current no-dedication position under annexation avoids.*

Applicant Response: Please see the separate comment response letter to the County. Please note that while park locations will be coordinated during the PUD and Preliminary Plat, that the General Development Plan now shows a park centrally located to the development.

Mountain View Electric Association (MVEA) / Permitting

Round 1: Leslie Brown, 9/16/2025 — Round 2: Samantha Sherman, 9/10/2026 **Round 1 Comment(s), Summary:**

MVEA requested a 10-foot front, side, and rear lot utility easement and all tracts, a 20-foot exterior utility easement, platting of MVEA's existing facilities, and confirmation that any damage, removal, or relocation of existing facilities would be at the Applicant's expense.

Applicant's Round 1 Response: The Applicant confirmed the requested easements would be shown on the Preliminary Plat and that any facility relocation costs would be borne by the Applicant.

Round 2 Comments:

MVEA confirms the Round 1 comments have been answered and satisfied, has no objection to the annexation, and repeats its request that the platted easements described above be carried forward onto the Preliminary Plat.

Applicant Response: Noted.

Colorado Department of Transportation / Region 2 Traffic and Safety, Permits Unit

Round 1: Adam Lancaster, P.E., 9/24/2025
Round 2: Teresa Guagliardo, CDOT R2 Access Manager, 3/23/2026 and 8/24/2026 (reviewer changed)

Round 1 Comment(s), Summary:

State Highway Access Code requirements, access permits required for each state highway connection, coordination with the Town on Permittee/Applicant requirements, and standard signing and utility permit provisions.

Applicant's Round 1 Response: The Applicant acknowledged and provided the Traffic Impact Study with this submittal, noting CDOT's request for alternatives to the Crystola Street/8th Street/Highway 24 intersection and stating three alternatives would be provided to progress discussion.

Round 2 Comments:

CDOT's March 23, 2026 letter characterizes the existing intersection as essentially a five-point intersection and states the added traffic will cause significant safety and operational issues, requiring an intersection solution rather than turn lane improvements alone. Minimum improvements listed are an eastbound left turn deceleration lane, a westbound right turn deceleration lane, and a southbound right turn deceleration lane.

CDOT's August 24, 2026 follow-up confirms three intersection alternatives were submitted, a roundabout, an auxiliary turn lane concept, and a T-intersection. CDOT states it would accept either the roundabout or the Tintersection, but that neither option is reflected in the current Traffic Impact Study. CDOT cites the Town's own Comprehensive Plan 2025, page 48, identifying a roundabout at this location as a gateway feature. If the T-intersection is preferred, CDOT requires that impacts to the Yoder Street/US-24 intersection be analyzed. CDOT recommends the selected solution be incorporated directly into the Annexation Agreement.

Staff Note: *This is a live decision point requiring a formal selection between the roundabout and Tintersection alternatives, reconciliation with the Traffic Impact Study, and, if the T-intersection is chosen, a supplemental analysis of the Yoder Street/US-24 intersection.*

Applicant Response: A separate comment response to CDOT has been provided. The TIA was revised to assume that a roundabout at Crystola and HWY 24 would be the preferred solution.

Calhan Fire District

Round 1: Al Kobilan, Board Chairman, 9/30/2025
Round 2: Michael Gates, 9/10/2026 (reviewer changed)

Round 1 Comment(s), Summary:

Concerns that the proposed density and high-density small lots do not meet the Town's 7,500 square foot minimum lot size, insufficient water flow and suppression capacity given distance to existing storage tanks, and a request for strict building codes and setbacks to allow fire equipment access.

Applicant's Round 1 Response: The Applicant stated exact density and lot sizes would be determined with the PUD/Rezone, that the developer would work with the Fire District during the Preliminary/Final Plat stage on site-specific fire protection requirements, and that development fees and additional tax revenue were anticipated to help support the Fire District.

Round 2 Comments:

The Round 2 response, submitted by Michael Gates rather than Al Kobilan, states no comments, concerns, or objections.

Applicant Response: Noted.

Calhan School District RJ-1

Donovan Mitchell, District Superintendent — Round 1: 9/30/2025 — Round 2: outstanding as of 9/11/2026 **Round 1 Comment(s), Summary:**

Concerns regarding housing affordability and type for young families, lot sizes and the risk of investor-owned rental conversion, preservation of rural character, and a request for community amenities including a community center and expanded parks.

Applicant's Round 1 Response: The Applicant responded that exact density and lot sizes would be determined with the PUD/Rezone, that smaller lots are proposed to support an affordable housing product for young families, and that open space and community parks would be shown on a future development plan.

Round 2 Status: No Round 2 comments have been received from Calhan School District RJ-1 as of the date of this letter. If comments are received, they will be shared with you separately, for response in Submittal_03, or a future submittal round.

Applicant Response: Noted.

United States Postal Service (USPS)

Nanda Natiebe A, Postmaster for Calhan — Round 1: 9/23/2025 — Round 2: Nanda Natiebe A, Postmaster, 9/11/2026 **Round 1 Comment(s), Summary:**

Concerns that the Calhan Post Office currently lacks sufficient capacity and staffing to accommodate the new growth, and will require additional casing and scanning equipment and increased clerk and carrier staffing.

Applicant's Round 1 Response: The Applicant stated the Annexation Impact Report would help identify potential impacts, and that units are anticipated to come online gradually, approximately 90 homes per year over a four- to seven-year period.

Round 2 Comments: Postmaster Nanda Natiebe A states it is unsure whether the Round 1 comments have been answered and satisfied, and raises a new concern: the Calhan Post Office currently lacks sufficient staffing, and the proposed annexation will amplify that existing staffing challenge.

Staff Note: *This response indicates the staffing concern raised in Round 1 remains live and is not resolved by the Applicant's Round 1 Response regarding phased buildout. The Applicant should specifically address how the anticipated phased delivery of approximately 90 homes per year is expected to affect Post Office staffing and capacity, and should consider coordinating directly with USPS on this point.*

Applicant Response: Kimley-Horn reached out to the post office. Nanda Natiebe is no longer with the post office. The Annexation Impact Report will help inform how the post office will be affected by this development.

Calhan / Third-Party On-Call Engineering Review

Round 1: Troy Kent, 9/30/2025

Round 2: Derrik Mills, P.E., CFM, Plan Review Manager, 9/14/2026, revised (reviewer changed) **Round 1 Comment(s), Summary:**

Road network and intersection concerns at Crystola/8th Street and US-24, McClasky Road bridge and pavement upgrade needs, the Rock Island Regional Trail, water rights transfer and water model requirements, a recommended sewer trunk line along McClasky Road sized for the full basin, wastewater treatment plant capacity validation, and flood hazard mitigation at the northeast corner of the site.

Applicant's Round 1 Response: The Applicant addressed each item individually across its Round 1 responses, generally deferring detailed engineering to the Preliminary/Final Plat stage while confirming the Traffic Impact Study, water model, and drainage report would be provided with this submittal.

Round 2 Comments:

Derrik Mills' formal Round 2 review memorandum, issued in Corrections Needed status, itemizes engineering comments across water, sanitary sewer, drainage, streets, and floodplain. On water, the memo notes multiple 8 inch water utility connections shown on site without clear ownership or supplier identified, and asks that legal submittals and the development plan confirm this, with any non-Town main flagged for review. Main extensions and tap locations are required along the McClasky Road and Eurich Road frontages, and the new water rights to be obtained must be detailed in depth. Water service terms will be addressed in the annexation agreement.

On sanitary sewer, the same ownership and supplier clarification is required. Derrik notes a significant amount of the proposed sanitary sewer work is shown taking place in the county rather than within Town limits, and states this must be corrected, which may require that additional area be brought into the annexation as part of this process. Sanitary service is to extend down McClasky Road and Eurich Road to the extent feasible, with system upgrades shown in schematic form at this stage and detailed engineering deferred to a later phase, and all off-site improvements shown as additional plan sheets rather than as separate documents.

On drainage, the on-site outfall location and layout require clarification, written landowner permission is required before any construction permit issues for off-site work, and the off-site storm sewer extension must be shown in schematic form, with any work outside Town boundaries brought forward for annexation and detention easements established. Derrik notes the site's topography and low points strongly indicate off-site drainage impacts.

On traffic and streets, Traffic Impact Study markups were submitted separately and require a response, and a roundabout should be offered as a traffic calming option. Border roads must be improved to current Town standards, at minimum a half section improvement, with a full section potentially required if existing conditions warrant it, and an intergovernmental agreement between the Town and El Paso County will be needed to establish maintenance and ownership of these roads going forward.

On street classification, the original memo classified McClasky Road as a Major Commercial Collector and Eurich Road as a Major Rural Collector, terms drawn from El Paso County's classification system rather than the Town's own Code, which recognizes only Arterial, Collector, Local, and Residential streets. Derrik's revised memo now classifies McClasky Road as a Collector Street, consistent with its designated commercial corridor status on the Future Land Use Map, and classifies both Crystola Street and Eurich Road as Arterial Streets, consistent with Town Code Section 15.03. Crystola Street's classification rests on its direct connection to US-24 at the 8th Street intersection, the same location CDOT has reviewed roundabout and Tintersection alternatives for, and its continuation through or termination at the development site tying into McClasky Road, an Arterial feeding a Collector being consistent with the Code's own hierarchy. Eurich Road's classification rests on its separate connection to the highway system at the Hahn Road intersection with US-24, west of Crystola Street. All streets are currently shown as public, and the Applicant must confirm that intent; both Arterial roads may require additional right of way dedication beyond what is currently shown.

On floodplain, FEMA floodplain boundaries, FIRM elevations, and related information are not currently shown on the annexation plat or the general development plan and must be added, along with a complete legend of the line types used in the plans.

The memo also notes, for information only, that detailed engineering of streets, utilities, and drainage is properly resolved at the PUD stage, and that the annexation agreement will not restrict engineering solutions appropriately addressed at that later phase.

Staff Note: *The additional annexation area question, arising from off-site sanitary sewer work shown outside Town limits, is the most consequential item in this memo and should be run down directly with Mr. Mills before the Round 2 record is treated as complete, since it could affect the contiguity calculation, the legal description, and the statutory sufficiency finding. Mr. Mills' memo reflects Collector for McClasky Road and Arterial for both Crystola Street and Eurich Road, consistent with Town Code Section 15.03. El Paso County DPW Engineering's own Round 2 letter confirms McClasky Road's County classification is Rural-Major Collector; this does not affect the Town Code Collector Street classification adopted above, but the County's own terminology should be cited correctly also, see the DPW Engineering section below. The intergovernmental agreement for border road maintenance and ownership remains an open deliverable that should be tracked alongside the annexation agreement drafting.*

Applicant Response: A separate comment response to the Engineering Comments has been provided with detailed responses to these concerns.

HR Green, Third-Party Reviewer on behalf of the Town of Calhan / Planning

Jeff Liljegren / jeff.liljegren@hrgreen.com — Ongoing through 9/11/2026 **Round**

2 Planning-Level Comments:

- The revised Petition for Annexation now includes the statutory allegations required under C.R.S. §§ 31-12-104 and 31-12-105, addressing the Round 1 deficiency, pending confirmation by the Town Attorney.

Applicant Response: Noted.

- The vesting deed or title commitment item remains unsatisfied: the 1993 Special Warranty Deed provided is not dated within 30 days of Submittal_02 and does not convey title to Smith Land Development & Co., LLC.

Applicant Response: See the response to Town Attorney. A chain of title was provided to the Town and satisfies the requirement for now.

- The consent letter question for Parcel 2202103001 (Isela Gonzalez) may be resolved by removing off-site stormwater improvements there, but the McClasky Sanitary Alignment Exhibit shows a proposed manhole near that same boundary; confirm the sanitary alignment stays within Town rightof-way or the site before closing this item.

Applicant Response: The General Development Plan now shows the sanitary alignment as a new Sheet 3. The prescriptive ROW is shown on the plan to show that the sanitary alignment will stay within the ROW.

- The revised GDP proposes 5 dwelling units per acre without fixed lot sizes; a compliant 7,500 square foot minimum lot layout under the Town's road and alley standards supports approximately 4.2 to 4.9 gross units per acre before collector streets, cross streets, and open space are deducted. McClasky Road's FLUM commercial corridor designation and the drainage-aligned park siting it anticipates remain unaddressed.

Applicant Response: The General Development Plan now shows a park in the center of the Site, consistent with the FLUM. However, for the commercial corridor, the applicant chooses not to show this commercial corridor for the following reasons:

1. El Paso County has requested a zone boundary buffer to provide an appropriate transition from the surrounding A-35 zoning to the proposed higher-density residential development. Commercial uses would represent an even greater increase in intensity and could raise additional concerns from the County. Because Calhan has limited zoning regulations, a conventional zoning boundary buffer is not readily available. However, the proposed PUD option provides flexibility to establish an appropriate transition. The General Development Plan includes a note stating that the applicant will coordinate with the County to develop a suitable buffer, which may include larger lots, increased setbacks, specific home orientations or layouts, or a combination of these measures.
2. Public testimony regarding the proposed commercial corridor was mixed, with neighboring property owners expressing both support and opposition. There is much differing public support for commercial development in this location.
3. The FLUM and Comprehensive Plan are intended to serve as guidance/advisory documents. Given the existing commercial corridor along Highway 24 and the additional residential demand needed to support that corridor, the applicant believes commercial uses along this portion of McClaskey Road are unlikely to be viable in the foreseeable future without additional residential growth and development in the County and or additional annexation that further defines the growth and demand for the use.

- Total proposed unit count is inconsistent across the Applicant's own deliverables: 467 in the GDP and Preliminary Utility Report, 473 in the Traffic Impact Study and CDOT correspondence, and 475 in the public comment response letter.

Applicant Response: The General Development Plan establishes a maximum density of five dwelling units per acre. Applied to the approximately 96-acre site, this density would equate to 480 dwelling units before accounting for land required for drainage facilities, parks, roadways, and other non-residential uses.

The Traffic Study assumes 475 dwelling units, representing the maximum allowable number of units for the development. This figure was intentionally retained because it provides a conservative basis for estimating site-generated traffic. Using a higher unit count for trip-generation analysis is a common approach to account for potential variations in the final development plan.

The 467 units represent the number of lots shown on the initial development plan. However, the final lot count remains subject to change based on comments received and revisions made through the annexation and development review processes.

In summary, the development is limited to a maximum of 475 dwelling units, while the final number of units will depend on the ultimate site design and the land required for infrastructure, drainage, parks, roadways, and other development requirements.

- Total site acreage is inconsistent across submitted documents: 95.9989 acres on the survey, plat, and petition; 96.0 acres in the Moore/Lytle letter; approximately 95.02 acres in the Preliminary Utility Report; and 91.15 acres per the County Assessor and Phase I ESA.

Applicant Response: The officially surveyed acreage is **95.9989 acres**, which is commonly rounded to **96 acres**, as reflected in the Moore Report. The Preliminary Utility Plan has been revised to reflect the surveyed acreage of 95.9989 acres. The Phase I ESA referenced acreage from the County Assessor's website, which does not reflect the surveyed acreage.

- The Calhan WWTP is permitted at 0.08 MGD and operates at approximately 78 percent of capacity. Per the Applicant's own Preliminary Utility Report, only 7 to 8 additional units can be added before CDPHE requires an expansion plan, and only 67 to 73 before construction becomes mandatory, against 467 proposed.

Applicant Response: The Moore Report, *Infrastructure Capacity Assessment for Proposed Annexation*, finds the plant is operating at about 75 percent of its permitted capacity. It also concludes that lagoon expansion cannot meet the effluent limits taking effect March 1, 2029, and that leakage from the unlined gravel pond should be minimized regardless of annexation. The Town therefore needs treatment improvements with or without North Tree. A detailed wastewater solution is outlined in the Preliminary Utility Report.

- The Phase I ESA, dated March 26, 2024, was prepared for LGI Homes rather than this annexation, and its 180-day viability window expired around September 2024; confirm whether an updated assessment exists.

Applicant Response: The Phase I ESA was provided to the Town as a courtesy to document previous efforts to evaluate environmental conditions associated with the project. The Phase I ESA has not been updated since September 2024 and is not a requirement of the annexation criteria set forth in Town Code Section 15.11.040.

- The Town's engineer supports the roundabout alternative at the Crystola Street/8th Street/US-24 intersection, consistent with the Comprehensive Plan 2025's gateway feature designation and Town planning staff's position; see the CDOT entry above for the full range of alternatives CDOT will accept.

Applicant Response: See the separate comment response document detailing the responses to the TIA comments. The TIA was revised to assume that a roundabout at Crystola and HWY 24 would be the preferred solution.

Fairfield & Woods P.C.

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November 10, 2026

Via Email Only
Jeff Liljegren, AICP, Town Planning Consultant, HR Green (jeff.liljegren@hrgreen.com)
Cindy Tompkins, CMC, Town Clerk, Town of Calhan (townclerk@calhan.co)

Re: North Tree Annexation Application, Submittal_03. Applicant's Response to the Town Water Attorney's Round 2 Referral Comments (Curtis, Justus and Zahedi, LLC letter dated September 11, 2026) and to the Moore Engineering Infrastructure Capacity Assessment (October 2026), with the North Tree Water Solution Plan

Dear Mr. Liljegren and Ms. Tompkins,

This letter responds on behalf of Smith Land Development & Co., LLC ("Smith Land") to the Round 2 comments of the Town's water attorneys, Curtis, Justus and Zahedi, LLC ("CJZ"), dated September 11, 2026 (the "CJZ Letter"), and to the Infrastructure Capacity Assessment for Proposed Annexation prepared by Moore Engineering, Inc. ("MEI") in October 2026, Moore Project No. 31289 (the "MEI Report"). It also responds to Mr. Liljegren's October 20, 2026, suggestion that Smith Land consider the full cost of bringing a supply online and delivering it to the site; Section 5 of the Plan lists each water facility and its MEI estimate. Enclosed as Exhibit A is the North Tree Water Solution Plan (the "Plan"), and enclosed as Exhibit B is Smith Land's response to the Upper Big Sandy Ground Water Management District. This letter is part of Submittal_03. A short summary of each response will also be entered in the CJZ "Applicant Response" field of the Referral Review Letter.

The CJZ Letter's central point is that Smith Land had not shown, on the Town's adopted standards, enough water for the development, and that it could not rely on the Town's water or on a fee to make up the difference. Smith Land has built the Plan to answer that point. The Plan meets Ordinance No. 2026-12 as written: a 300-year life, 0.35 acre-feet per SFE, 2.5 acre-feet per irrigated acre, and a 1.5-acre well site. It does not depend on the Town's water rights or on the Board changing any standard. Every home is tied to water dedicated to the Town, or to a fee-in-lieu the Board elects, before that home is approved, and if neither is delivered, the homes are not built. Because the decision whether to accept a fee belongs to the Board, the Plan also provides dedicated private supply that works without one. Smith Land's preference, stated in Section 1, is to work with the Town on a reasonable fee-in-lieu.

1. THE WATER SOLUTION PLAN

The Plan has four parts, each described in detail in Exhibit A.

1. **Property Water.** Smith Land conveys to the Town at annexation all Denver Basin groundwater beneath the Property. Using MEI's Table 1, the Plan credits only the Denver and Arapahoe water, at 300 years: 21.7 acre-feet per year, enough for 62 SFEs. The

Laramie-Fox Hills water is conveyed but credited at zero unless and until the Town chooses to produce it.

2. **Supplemental Water.** For every home beyond the first 62, the Town receives supplemental water before the phase that needs it is approved, by the route the Board prefers. Smith Land prefers a reasonable fee-in-lieu developed cooperatively with the Town, with well monitoring and adjustment over time. To the extent the Board does not elect that route, Smith Land will acquire Denver Basin groundwater from private sources within the Upper Big Sandy Ground Water Management District, have that water determined by the Commission, deliver a title opinion, and convey it to the Town. On the Town's standards that is about 146 acre-feet per year at build-out, roughly one acre of overlying land per home.

3. **Wells and Facilities.** Smith Land pays for the wells: rehabilitation of the three Town Laramie-Fox Hills wells and a new Arapahoe well on a 1.5-acre well site on the Property, both in service before any home beyond the first 62. A second well follows before the fourth phase.

4. **Phase Gates.** The Annexation Agreement and the Water Resources Agreement cap approved units at what the dedicated water supports. The Town engineer certifies the ledger and the facilities before each phase.

Phase	Total SFEs	Total demand	Property water	Supplemental water	Facilities in service before release
1	62	21.7	21.7	0.0	Well site; distribution connections; existing system
2	150	57.0	21.7	35.3	Well 1; Laramie-Fox Hills rehabilitation; wastewater plant under construction
3	250	92.0	21.7	70.3	New wastewater plant in service [timing per MEI]
4	360	130.5	21.7	108.8	Well 2
5	467	168.0	21.7	146.3	None additional

Acre-feet per year at a 300-year life and 0.35 acre-feet per SFE; irrigated parkland (4.5 acre-feet per year) assigned to Phase 2.

Phase 1 needs nothing from the Town but the Property water. Its 62 units fall within CJZ's statement that the existing system can serve approximately 71 homes before improvements (CJZ Letter, Comment 3). They also fall within the 67 to 73 single-family units that the Kimley-Horn Preliminary Utility Report estimates the existing wastewater plant can accept before the 95 percent hydraulic capacity at which CDPHE requires a construction schedule (Preliminary Utility Report at 7, Table 5). The same report shows that the 80 percent planning trigger is reached after about 7 or 8 homes, which is why the Plan has the new wastewater plant under construction during Phase 2. From the 63rd home on, the Town receives new wet water through a new well that Smith Land has paid for before that home is approved. That is the sequence Big Sandy Water District asked for in Round 1 and, as Ms. Zahedi's October 20, 2026, email describes it, the Board's stated preference for wet water rather than a check.

Smith Land prefers to cooperate with the Town on a reasonable fee-in-lieu for the supplemental water, with well monitoring and future adjustments as needed. That water is about 146 acre-feet per year on the adopted standards and about 123 acre-feet per year at the 0.30 demand factor discussed in Section 5. A fee of that kind would fund wet water, consistent with the Board's preference, and could be combined with dedicated supply wherever the Board wishes. The Board may also make some of its own water available, whether its Laramie-Fox Hills capacity, which MEI believes could serve 250 to 300 SFEs after rehabilitation, or the Denver and Arapahoe water beneath Town lands developed at Smith Land's cost. If it does, each acre-foot reduces the water Smith Land must buy. The Plan offers those choices but does not depend on any of them.

2. WHAT SMITH LAND IS DELIVERING WITH SUBMITTAL_03

Submittal_03 includes the following. The Plan (Exhibit A). A current title commitment for the Property with the groundwater estate identified, and the formal title opinion required by Section 14.11.090 delivered with this package (Comment 1). A draft Groundwater Consent Agreement (Comment 2). The Revision 2 water demand analysis on the Town's standards, with irrigated parkland capped at 1.8 acres (Comment 3). A revised General Development Plan with a well site of not less than 1.5 acres (Comment 6). A revised Water Resources Agreement incorporating the Plan's ledger and phase gates (Comment 5). Smith Land's response to the Upper Big Sandy Ground Water Management District (Exhibit B).

3. RESPONSE TO CJZ COMMENT 1: STATEMENT OF WATER RIGHTS AND TITLE

Smith Land agrees that Section 14.11.090 requires a formal title opinion and that the February 12, 2026 Water Review Letter was not one. The title commitment and the formal opinion are delivered with Submittal_03. The Plan extends the same requirement to every supplemental acquisition: no supplemental water is credited until a title opinion on it has been delivered.

Smith Land also agrees that Section 14.11.080(A) requires a Commission determination. At the Toen's direction, the applications for the Property's Denver, Arapahoe, and Laramie-Fox Hills water will be filed on the final legal description, with copies to the District under District Rule 24, and supplemental water will be determined before it is credited. The Water Resources Agreement will refer to the Colorado Ground Water Commission rather than the Water Court, since the Property lies within the Upper Big Sandy Designated Ground Water Basin.

4. RESPONSE TO CJZ COMMENT 2: GROUNDWATER CONSENT AGREEMENT

Smith Land agrees that a Groundwater Consent Agreement under Section 14.11.060 will be executed concurrently with annexation and includes a draft with Submittal_03 for CJZ's review.

5. RESPONSE TO CJZ COMMENT 3: WATER SUPPLY & DEMAND EVALUATION

1. Demand.

The Plan uses the Town's 0.35 acre-feet per SFE and 2.5 acre-feet per irrigated acre, with irrigated parkland capped at 1.8 acres, for a total demand of 168.0 acre-feet per year. That

is slightly above the 167.5 in the CJZ Letter and the MEI Report, which used 1.605 irrigated acres. Smith Land does not ask the Board to change the factor as a condition of the Plan.

Smith Land asks the Board to apply a lower, site-specific demand factor to North Tree. The May 22, 2026, memorandum that led to Ordinance No. 2026-12 described the SFE figure as a "rebuttable presumptive" demand with a typical range of 0.25 to 0.40 acre-feet per year "depending on the size of lots." The Board adopted that presumption, and the Board has the authority to depart from it where the evidence supports doing so. North Tree's small-lot, entry-level homes support a site-specific factor of about 0.30, inclusive of lot irrigation (Revision 1 derived 0.26 indoor from El Paso County Land Development Code Section 8.4.7(7)(d), plus about 0.03 for lot irrigation). At 0.30, total demand at build-out falls from 168.0 to about 144.6 acre-feet per year, the supplemental water Smith Land must supply falls by about 23 acre-feet per year to about 123, and the overlying land needed falls from about 430 acres to about 360. Section 8 sets out the effect. The Plan itself assumes no conservation or reuse credit; any credit the Board later approves would reduce the supplemental water required.

2. **The Town's existing wells and the 71-home figure.**

The MEI Report replaces the Round 1 figures. The Town's three Laramie-Fox Hills wells are permitted for 462 acre-feet per year. MEI puts current average-day demand at 67 gallons per minute and current maximum well capacity at about 275 gallons per minute, but finds that rehabilitation and lowered pumps are needed for that capacity to be reliable, at an estimated $600,000 (MEI Report at 4). The Plan adopts MEI's figures and its recommendation. Smith Land funds the rehabilitation, which is complete before Phase 2, and uses the existing system only for the physical service of Phase 1. That stays within CJZ's 71-home figure and draws on no Town water right, because Phase 1 is fully covered by the Property water.

3. **The Laramie-Fox Hills water and Permit No. 9691-F-R.**

The Plan does not credit the Property's Laramie-Fox Hills water. MEI calculates that the circle of appropriation of Permit No. 9691-F-R covers about 24 percent of the Property, reducing that water to 25.0 acre-feet per year at 100 years and 8.3 at 300 years. MEI also questions whether a new Laramie-Fox Hills appropriation could affect the Town's pre-Senate Bill 213 status (MEI Report at 3). Smith Land will convey the water anyway, so the Town owns it whatever it later decides. If the Town later produces it, the 8.3 acre-feet per year reduces the supplemental water one for one. Smith Land continues to question whether adding a well or a point of diversion to the Town's Laramie-Fox Hills system would reopen a pre-1973 permit. *Parker Water and Sanitation District v. Rein*, 2024 CO 71M, addressed permits issued under Senate Bill 213 itself, and Permit No. 9691-F-R's "R" suffix suggests it has already been through a replacement permitting action. But the Plan no longer depends on that question being answered.

4. **Physical yield of the Denver and Arapahoe aquifers.**

   CJZ notes that physical yield is unknown because no Denver or Arapahoe wells are nearby. MEI's opinion is that wells in those aquifers can likely produce the 300-year volumes (MEI Report at 3), and the Plan credits only those volumes. The Plan also answers the question with a well rather than an opinion. Well 1, an Arapahoe production well with a minimum reliable yield of 66 gallons per minute (MEI's recommendation, estimated at $1,860,000), must be producing before the 63rd home is approved. Its demonstrated yield sets whether and when Well 2 is needed. The Commission requires that wells withdrawing Denver Basin water be located on the overlying land (DBR 5.3.7). The 1.5-acre well site on the Property is therefore the place where the conveyed water can lawfully be produced, and supplemental water from nearby lands can be produced there too under DBR 5.3.7.2 and 5.3.8.

6. RESPONSE TO CJZ COMMENT 4: WATER RIGHTS DEDICATION AND FEE-IN-LIEU

CJZ wrote that acceptance of a fee-in-lieu is entirely within the Town's discretion and that Smith Land cannot rely on one. The Board has that authority, and Smith Land does not assume how the Board will exercise it. That is why the Plan includes dedicated private supply that works without a fee. Smith Land withdraws its earlier proposal of $1,500 per acre-foot. Its preference, stated in Section 1, is to work with the Town on a reasonable fee-in-lieu for the supplemental water, with well monitoring and future adjustments as needed.

Ms. Zahedi's October 20, 2026, email to Mr. Liljegren, which he forwarded to Kimley-Horn and Smith Land the same day with the June 25, 2026, workshop presentation, reports that Bennett's fee of $26,960 per SFE at 0.340 acre-feet per SFE, about $78,500 to $79,000 per acre-foot, was recommended at the workshop as a ballpark fee-in-lieu figure. She also reports that any fee would have to be grounded in the actual cost of replacing the supply, and that the Board chose not to set a rate at all, preferring wet water to a check. The Plan is built on the Board's stated preference for wet water, and a fee-in-lieu that funds wells and supply for the Town would serve that preference.

If the Board wishes to substitute Town water or a fee for some of the supplemental water, Smith Land would welcome that and asks that the price reflect the Town's actual replacement cost, as Ms. Zahedi's email says it must. Bennett's fee prices the purchase of renewable water. Calhan's replacement supply is Denver Basin water beneath Town lands, which the May 22, 2026, memorandum identified as a replacement-cost option and which MEI estimates at likely more than 300 acre-feet per year. The cost of replacing that supply is the cost of a well. MEI prices a 66 gallon per minute Arapahoe well at $1,860,000. That well yields about 106 acre-feet per year if pumped continuously and about 75 to a 70 percent run time, roughly $17,500 to $25,000 per acre-foot of annual yield, well below $79,000. Those figures use MEI's price for the well. Smith Land believes some of MEI's estimates are materially higher than the cost of comparable work (the $500,000 estimate for the McClasky Road culvert and drainage improvements is an example), and asks that every cost in the MEI Report be verified by an independent third party before the Town approves it or relies on it to set a fee or allocate responsibility. Any fee should also be credited

against the wells Smith Land builds, so that the same cost is not recovered twice, and should be monitored and adjusted as actual well performance and demand become known. A fee must bear a reasonable relationship to the impact of the development. *Sheetz v. County of El Dorado*, 601 U.S. 267 (2024); *Koontz v. St. Johns River Water Management District*, 570 U.S. 595 (2013). Under the Plan, however, the Board need not reach those questions to approve the annexation.

7. RESPONSES TO CJZ COMMENTS 5 AND 6: WATER RESOURCES AGREEMENT AND WELL SITE

Smith Land treats CJZ's redline as a negotiating draft. The revised Water Resources Agreement delivered with Submittal_03 fills the redline's blanks. It states the per-aquifer volumes, to be conformed to the Commission's determinations on the final legal description, and resolves the 2,860 versus 2,890 acre-foot discrepancy in the Denver aquifer figures. It carries the ownership representation supported by the title work and incorporates the Plan's ledger, phase gates, and supplemental water obligations. It also retains a Section 14.11.080(C) provision for any water the Town elects to accept before its determination is final. Smith Land would rather resolve these terms in a working session with CJZ than through another round of redlines.

Smith Land agrees to a well site of not less than 1.5 acres, configured and graded for full ingress and egress and deep bedrock drilling, subject to Town approval before acceptance, as Section 14.11.040(C) and the MEI Report require. The site will hold Well 1 and, if Lytle Water Solutions recommends, Well 2 in a different aquifer. The Commission's 600-foot spacing rule applies only between large-capacity wells in the same aquifer (DBR 5.3.7.1). The site will be conveyed to the Town in fee simple at annexation.

8. WHAT THE 300-YEAR STANDARD COSTS

The Plan meets the 300-year standard, and Smith Land does not condition the Plan on any change to it. The Board should still see what the standard costs, because the cost falls on the homes the Comprehensive Plan 2035 and the School District's Round 1 comments both say the Town wants to be attainable for young families.

The Commission allocates Denver Basin water in a designated basin on a 100-year aquifer life and will permit the Town's wells on that basis (C.R.S. § 37-90-107(7)(a); DBR 5.3.3.1). The Town's 300-year standard is a planning convention applied on top of that allocation, and it triples the land behind each home. The Town's June 25, 2026, workshop presentation used Kiowa and Bennett as "Closer Comparables," and Smith Land asks the Town to confirm the aquifer life those municipalities apply to new development. The MEI Report carries the Town's own Laramie-Fox Hills rights at their full permitted amount of 462 acre-feet per year without a 300-year reduction.

Scenario	Supplemental water at build-out	Approx. acres
As adopted: 300 years, 0.35 per SFE (the Plan)	**146.3**	**430**
300 years, 0.30 per SFE	122.9	360
100 years, 0.35 per SFE, Laramie-Fox Hills credited	78.0	75

Scenario	Supplemental water at build-out	Approx. acres
100 years, 0.30 per SFE, Laramie-Fox Hills credited	54.6	55

Acre-feet per year; acreage at the Property's per-acre yield, rounded. See Plan, Section 8.

Smith Land asks the Board to consider applying the statutory 100-year life, or a site-specific demand factor, to this application. The application was filed in September 2025, before Ordinance No. 2026-12 was adopted. The Board has full authority to make these decisions on the record before it, and Smith Land asks that it do so on the merits of the evidence. If the Board declines, the Plan proceeds on the adopted standards.

9. UPPER BIG SANDY GROUND WATER MANAGEMENT DISTRICT

The District's September 11, 2026, letter states that its concerns had not been addressed. Smith Land has responded to the District through its counsel (Exhibit B). In summary, the Plan uses no Big Sandy alluvial water. The nontributary Arapahoe and Laramie-Fox Hills water requires no Commission replacement plan, only a 98 percent consumption limit (DBR 5.3.6.2.A). The Denver aquifer water beneath the Property requires 4 percent replacement to the alluvium without a replacement plan (DBR 5.3.6.2.B; MEI Report at 2). All water will be used within the District, the wells will meet the District's spacing, metering, construction, and reporting rules, and the replacement wastewater plant improves the quality of what returns to the alluvium. Because the Plan involves no alluvial pumping and no replacement plan, the District's role is the one its Rules provide for Denver Basin wells: comment on permit applications, spacing, metering and reporting, and export. Smith Land will comply with each and will copy the District on its Commission filings under District Rule 24.

10. WASTEWATER TREATMENT AND FEDERAL RESOURCES

The new wastewater plant. MEI finds that the Town's plant operates at about 75 percent of its permitted hydraulic capacity (the Kimley-Horn Preliminary Utility Report reports a highest 30-day average of about 78 percent), that lagoon expansion cannot meet the effluent limits taking effect March 1, 2029, and that leakage from the unlined gravel pond should be minimized regardless of annexation (MEI Report at 9 to 14). The Town therefore faces a treatment need with or without North Tree. The new plant is to be funded through grants and the Town's tap fees on new connections. The Town is already pursuing state grant funding for plant improvements (Preliminary Utility Report at 8), and Smith Land will support those applications.

The 21st Century ROAD to Housing Act, H.R. 6644, became law on July 11, 2026. Section 208 creates an Innovation Fund, a $200 million per year competitive grant program for local governments that demonstrate measurable increases in housing supply. A lead sponsor described it as allowing a community that authorizes new housing to seek federal money for costs such as a sewage treatment plant. A phased annexation with documented milestones, like the Plan's ledger, is the kind of supply increase the program rewards, and the new wastewater plant is the kind of cost it addresses. Section 204 makes new affordable housing construction an eligible CDBG use, Section 213 ties part of CDBG funding to housing production, Section 501 adds HOME flexibility

for housing-related infrastructure, and Sections 502 and 802 reform the Department of Agriculture's Rural Housing Service programs. These programs are authorized, not funded. Section 1202 states that the Act authorizes no additional funds, grants are competitive, implementing rules are pending, and the affordable-housing programs generally require income-restricted units. Smith Land will support the Town's applications with data, phasing documentation, and matching contributions or in-kind engineering, and asks that the Annexation Agreement acknowledge the parties' intent to pursue that funding for the new wastewater plant.

11. CONCLUSION AND REQUESTED NEXT STEP

The CJZ Letter asked Smith Land to show, on the Town's standards, that North Tree has enough water, without leaning on the Town's supply or a fee. The Plan does that. It dedicates the Property water at annexation and provides supplemental water before every phase that needs it, either as dedicated private supply or, if the Board prefers, through a cooperative fee-in-lieu that Smith Land would welcome. Smith Land builds the wells that turn that water into supply, and no home is approved ahead of its water. The risk that the supplemental water cannot be found falls on Smith Land, not on the Town. If the water is not delivered, the project stops at the last certified phase, and the Town keeps every acre-foot already conveyed. The Board has the authority to decide these questions, and Smith Land is confident it will weigh the options on their merits.

Sincerely,

Eric K Trout

Eric K. Trout
Fairfield and Woods, P.C.

Enclosures: Exhibit A, North Tree Water Solution Plan
Exhibit B, Letter to Upper Big Sandy Ground Water Management District

cc: Will Vandergriff, Smith Land Development & Co., LLC
Kevin Kofford, PE, Kimley-Horn

Eric K. Trout
(303) 894-4440
etrout@fwlaw.com

November 10, 2026

NORTH TREE ANNEXATION
WATER SOLUTION PLAN

Re: Submitted by Smith Land Development & Co., LLC to the Town of Calhan with Submittal_03 Exhibit A to the Applicant's Response to the Town Water Attorney's Round 2 Referral Comments

1. THE PLAN IN BRIEF

Smith Land will dedicate to the Town, measured by the Town's own standards, enough water to serve every home in North Tree before that home is approved. The plan does not depend on the Town's existing water rights or on any change to the standards the Board adopted in Ordinance No. 2026-12. It is built to give the Board a choice for the water beyond the Property's own: a cooperative fee-in-lieu with the Town, which Smith Land prefers, or dedicated private supply, which Smith Land will deliver to the extent the Board does not elect the fee. It has four parts.

1. **Property Water.** Smith Land conveys to the Town, at annexation, all Denver Basin groundwater beneath the Property. The plan credits only the Denver and Arapahoe water, measured at a 300-year life: 21.7 acre-feet per year, enough for 62 single family equivalents ("SFEs"). The Laramie-Fox Hills water is conveyed as well but counts only if and when the Town chooses to produce it.
2. **Supplemental Water.** For every home beyond the first 62, the Town receives supplemental water before the phase that needs it is approved, by the route the Board prefers. Smith Land prefers a reasonable fee-in-lieu under Town Code § 14.11.100, developed cooperatively with the Town, with monitoring of the wells and adjustment over time. To the extent the Board does not elect that route, Smith Land will acquire Denver Basin groundwater from private sources outside the Property, within the Upper Big Sandy Ground Water Management District, have it determined by the Colorado Ground Water Commission, deliver a title opinion, and convey it to the Town. On the Town's standards that is about 146 acre-feet per year at full build-out, roughly one acre of overlying land per home.
3. **Wells and Facilities.** Smith Land provides the wells that produce the water: rehabilitation of the Town's three Laramie-Fox Hills wells, a new Arapahoe well on a dedicated 1.5-acre well site on the Property before any home beyond the first 62, and a second well before the fourth phase. Smith Land expects to fund them through a metropolitan district and applicable grants, with every cost verified by an independent third party.
4. **Phase Gates.** The Annexation Agreement and the Water Resources Agreement cap approved units at the number the dedicated water supports. The Town engineer certifies the water ledger and the facilities before each phase. If neither the water nor an agreed fee-

in-lieu is delivered for a phase, that phase does not proceed and the Town has no obligation to serve it.

Smith Land encourages the Board to work with it on a fee-in-lieu combined with dedicated supply. A reasonable fee, grounded in the Town's actual cost of replacing the supply, would fund wet water rather than replace it. It would be tied to monitoring of the Town's wells and adjusted over time as that monitoring shows how the wells actually perform. Each acre-foot the Board provides, through its Laramie-Fox Hills capacity, through Denver Basin water beneath Town lands developed at Smith Land's cost, or through a fee-in-lieu, reduces the supplemental water Smith Land must acquire privately. The choice is the Board's. If the Board elects none of them, the dedicated private supply in Section 4.2 meets every phase.

2. STANDARDS APPLIED

The plan applies the Town's adopted standards without modification. Where the Ground Water Commission's rules govern how the water is allocated and produced, the plan follows those rules.

Item	Standard used in this plan	Source
Planning life of Denver Basin water	300 years (allocation divided by 300)	Town Code § 14.11.040(A)
Residential demand	0.35 acre-feet per year per SFE	Town Code § 14.11.040(B)(1)
Irrigated land	2.5 acre-feet per irrigated acre per year	Town Code § 14.11.040(B)(3)
Well site	Not less than 1.5 acres, configured for deep bedrock drilling	Town Code § 14.11.040(C)
Groundwater Consent Agreement	Executed concurrently with annexation	Town Code § 14.11.060
Commission determination	Required before any water is credited	Town Code § 14.11.080(A)
Title opinion	Required for the Property water and each supplemental acquisition	Town Code § 14.11.090
Commission allocation	100-year aquifer life, on the basis of overlying land	C.R.S. § 37-90-107(7)(a); DBR 5.3.2, 5.3.3.1
Well location	Wells withdrawing Denver Basin water located on the overlying land	DBR 5.3.7, 5.3.7.2, 5.3.8
Replacement	98% consumption limit (nontributary); 4% replacement (Denver, not-nontributary)	DBR 5.3.6.2.A and B

"DBR" refers to the Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1.

3. DEMAND AT FULL BUILD-OUT

Component	Basis	Acre-feet per year
Residential	467 SFEs × 0.35	163.45
Irrigated parkland	1.8 irrigated acres (cap) × 2.5	4.50
Total demand		**167.95 (use 168.0)**

CJZ and the MEI Report computed 167.5 acre-feet per year using 1.605 irrigated acres. This plan uses a 1.8-acre cap on irrigated parkland, which the revised General Development Plan and the Water Resources Agreement will state. The cap assumes that 30 percent of the roughly 6 acres of park shown on the plan is irrigated, and it adds about 0.5 acre-feet per year.

A lower demand factor. North Tree is a small-lot, entry-level development. The May 22, 2026 memorandum that led to Ordinance No. 2026-12 described 0.35 acre-feet per SFE as a rebuttable presumptive figure within a typical range of 0.25 to 0.40, depending on the size of lots. A site-specific factor of about 0.30, inclusive of lot irrigation, is better supported for homes of this size. At 0.30, total demand at build-out is about 144.6 acre-feet per year, and the supplemental water falls from 146.3 to 122.9 acre-feet per year (Section 8). Smith Land asks the Board to consider that factor. The ledger in Section 6 uses the adopted 0.35 unless and until the Board approves a lower figure.

4. SOURCES OF SUPPLY

4.1 Property water (conveyed at annexation)

Aquifer	Status	100-year life	300-year life	Credited in this plan
Denver	Not-nontributary	29.6	9.9	9.9
Arapahoe	Nontributary	35.4	11.8	11.8
Laramie-Fox Hills	Nontributary	33.0 (25.0 after Permit 9691-F-R reduction)	8.3	0.0 until produced
Total		**98.0 (90.0)**	**30.0**	**21.7**

Acre-feet per year. Source: MEI Report, Table 1 and pages 2 to 3, using the Division of Water Resources Aquifer Determination Tool on the 95.9989-acre plat area. Final figures will come from the Commission's determinations on the final legal description.

Smith Land conveys all three aquifers to the Town in fee at annexation, free of any reservation to lot owners, so that the water is not treated as controlled by individual lot owners under DBR 5.3.2.2. The plan credits the Denver and Arapahoe water at the Town's 300-year rate, 21.7 acre-feet per year. MEI's opinion is that wells in those aquifers can likely produce the 300-year volumes (MEI Report at 3). The Laramie-Fox Hills water is credited at zero. MEI has raised a question whether a new Laramie-Fox Hills appropriation could affect the Town's pre-Senate Bill 213 rights (MEI Report at 3), and the plan does not ask the Town to take that risk. If the Town later produces that water, its 8.3 acre-feet per year at 300 years reduces the supplemental water Smith Land must deliver.

4.2 Supplemental water (acquired by Smith Land from private sources)

Supplemental water is the assured route for every home beyond the first 62 SFEs, to the extent the Board does not elect one of the options in Section 4.3. It is credited only when it meets all of the following conditions.

(a) It is Denver Basin groundwater (Denver, Arapahoe, or Laramie-Fox Hills) beneath lands within the Upper Big Sandy Ground Water Management District, so that its use in the Town involves no export under District Rule 3.

(b) The Commission has determined it under C.R.S. § 37-90-107(7) and DBR 5.3, with notice to the District under District Rule 24.

(c) A title opinion meeting Town Code § 14.11.090 has been delivered.

(d) It has been conveyed to the Town in fee, together with well sites or easements on the overlying land, because DBR 5.3.7 requires Denver Basin wells to be located on the overlying land. Smith Land will give priority to lands adjoining or near the Property so that the water can be produced through the North Tree well site under DBR 5.3.7.2 (noncontiguous parcels) and 5.3.8 (well fields). [LWS to confirm the cylinder-of-appropriation geometry.]

(e) Laramie-Fox Hills water is credited only from lands outside the circles of appropriation of the Town's pre-Senate Bill 213 wells.

(f) Its use does not require a replacement plan under DBR 5.6 (for example, Denver aquifer water within one mile of the alluvium contact under DBR 5.3.6.2.C).

(g) It is credited at the Town's 300-year rate: the determined allocation divided by 300.

Quantity. On the Town's standards the supplemental water needed at full build-out is 168.0 less 21.7, or 146.3 acre-feet per year. The Property yields about 0.34 acre-feet per year per acre at 300 years across all three aquifers (98.0 ÷ 95.9989 ÷ 3). At similar saturated thicknesses, the supplemental requirement corresponds to roughly 430 acres of overlying land, or about one acre per home. Actual acreage will depend on each parcel's Commission determination. Smith Land has not yet identified specific parcels. It will identify and secure suitable private Denver Basin sources within the District as each phase approaches, and will report them to the Town, with executed letters of intent or purchase contracts where available, before the phase is released.

4.3 Fee-in-lieu and other options at the Board's election

Smith Land prefers to work with the Board on option (a). None of the options is required for the plan to work, because Section 4.2 supplies the water if the Board elects none of them. Any acre-foot, or the equivalent in fee, that the Board provides through one of these options reduces the supplemental water for that phase one for one.

(a) Fee-in-lieu under Town Code § 14.11.100. Smith Land encourages the Board to work with it on a reasonable fee-in-lieu, combined with dedicated supply as needed. The fee would be priced at the Town's actual cost to replace the supply, as Ms. Zahedi's October 20, 2026 email says it must be, and credited against the wells Smith Land funds so that the same cost is not recovered twice. It would rest on costs verified by an independent third party, be supported by monitoring of the Town's wells, and be adjusted in the future as the monitoring and actual demand warrant.

(b) Town Laramie-Fox Hills capacity. MEI's opinion is that, after rehabilitation of the Town's three Laramie-Fox Hills wells, the Town may be able to serve approximately 250 to 300 SFEs of North Tree if the Board approves the use and a fee is paid (MEI Report at 4 and 5).

(c) Town Denver Basin water developed at Smith Land's cost. MEI's June 22, 2026 well testing memorandum reports likely more than 300 acre-feet per year of Denver and Arapahoe water beneath the Town that the Town could appropriate. Smith Land would pay the Commission filing, well, and connection costs of developing an agreed amount, which is replacement water created in kind rather than paid for in cash.

4.4 Demand Credits

The plan assumes no conservation or reuse credit. If the Board later approves a credit, for example for reuse of treated water for park irrigation, the credit reduces the supplemental water required.

5. WELLS AND FACILITIES

Facility	Purpose	In service before	MEI estimate	Paid by
1.5-acre well site on the Property	Location for North Tree wells on the overlying land (DBR 5.3.7)	Dedicated at annexation	None	Smith Land
Two 8-inch distribution connections	Connect the Annexation Area to the Town system	Phase 1	Site costs	Smith Land
Rehabilitation of the Railroad, Tower, and Gordon Laramie-Fox Hills wells	Reliable system capacity, peaking, and redundancy	Phase 2	$600,000	Smith Land
Well 1: Arapahoe production well, minimum 66 gpm reliable yield	Produce conveyed and supplemental water	Phase 2 (first home after 62)	$1,860,000	Smith Land
Well 2: [Denver or second Arapahoe well, per LWS]	Capacity beyond Well 1 and redundancy	Phase 4	[$1,860,000 placeholder]	Smith Land
Collection lines from supplemental lands, if not produced through the well site	Deliver supplemental water	As needed	[TBD]	Smith Land
Storage	700,000 gallons existing; 632,066 required at build-out	None needed	None	n/a

The physical supply works as follows. North Tree's average demand at build-out is about 104 gallons per minute and its peak-day demand is about 208 gallons per minute. With the Town's existing maximum-day demand of 133 gallons per minute, MEI puts the combined peak at 341 gallons per minute, which the rehabilitated Laramie-Fox Hills wells (about 275 gallons per minute) and Well 1 (66 gallons per minute) together meet (MEI Report at 4 and 5). Well 1 running continuously would produce about 106 acre-feet per year, a level North Tree's average demand reaches at about 290 SFEs. Allowing for realistic run times, Well 2 is in service before the fourth phase, which begins at the 251st SFE. Well 2 also supplies the redundancy MEI notes the system currently lacks. The Commission's permits will allow withdrawal at the 100-year rate, so the Town will hold legal pumping rights roughly three times the annual volume the plan credits. That margin is a reserve, not a source the plan relies on.

Funding and Cost Verification. Smith Land expects to fund these facilities through a metropolitan district and applicable grants. The MEI figures are planning-level estimates, and Smith Land believes some are materially higher than the cost of comparable work; the $500,000 estimate for the McClasky Road culvert and drainage improvements is an example. Smith Land asks that every cost in the MEI Report be verified by an independent third party before the Board approves it or relies on it to allocate responsibility or to set a fee, and proposes that the Annexation Agreement provide for that verification.

6. PHASING AND WATER ADEQUACY LEDGER

Each phase is released only when the water dedicated to the Town, credited on the Town's standards, together with any water or fee-in-lieu the Board has elected under Section 4.3, equals or exceeds the cumulative demand of every unit approved through that phase, and the listed facilities are in service.

Phase	Total SFEs	Total demand	Property water	Supplemental water (total)	Acres (total)	Facilities in service before release
1	62	21.7	21.7	0.0	0	Well site dedicated; distribution connections; existing Town system
2	150	57.0	21.7	35.3	105	Well 1 producing; Laramie-Fox Hills rehabilitation complete; wastewater plant under construction
3	250	92.0	21.7	70.3	205	New wastewater treatment plant in service [timing per Town and MEI]
4	360	130.5	21.7	108.8	320	Well 2 producing
5	467	168.0	21.7	146.3	430	None additional

Acre-feet per year at a 300-year life and 0.35 acre-feet per SFE. Irrigated parkland (4.5 acre-feet per year) is assigned to Phase 2. Acreage assumes the Property's per-acre yield and is rounded. Phase sizes reflect build-out of about 90 homes per year. The ledger assumes the Board elects none of the options in Section 4.3; any Board election reduces the supplemental column.

Phase 1 is sized to the Property water alone. Its 62 units fall within CJZ's statement that the existing system can serve approximately 71 homes before improvements, and within the 67 to 73 single-family units that the Kimley-Horn Preliminary Utility Report estimates the existing wastewater plant can accept before the 95 percent hydraulic capacity at which CDPHE requires a construction schedule (Preliminary Utility Report at 7, Table 5). The same report shows that the 80 percent planning trigger is reached after about 7 or 8 homes, which is why the plan has the new wastewater plant under construction during Phase 2. Phase 1 therefore requires no new Town facility, no Town water right, and no supplemental water.

7. HOW THE TOWN VERIFIES AND ENFORCES THE PLAN

(a) The Annexation Agreement and the Water Resources Agreement will incorporate the ledger in Section 6 and limit approved units to the number the dedicated water supports. Town Code § 14.11.040 requires dedication of sufficient water before annexation. Smith Land reads the "proposed development" approved at annexation as Phase 1 plus the right to later phases on dedication of their water. If the Board reads the Code to require the full

supply before annexation, Smith Land will do one of the following, as the Board prefers: (i) acquire and convey all supplemental water before second reading of the annexation ordinance; (ii) deliver executed letters of intent or purchase contracts for the supplemental water that has not yet been conveyed; or (iii) enter into a fee-in-lieu agreement under Town Code § 14.11.100 for that water.

(b) Before each final plat or release of building permits for a new phase, Smith Land delivers, for that phase's supplemental water, the Commission determination, the title opinion, and the recorded deed, or evidence that the fee-in-lieu the Board has elected for that water has been paid. The Town engineer certifies in writing that the ledger and the facilities requirements are met.

(c) No final plat or building permit issues for any unit beyond the certified ledger. A notice of the ledger restriction will be recorded against the Property.

(d) Smith Land's obligations to build the facilities will be set out in the Annexation Agreement and the reimbursement agreement, and no phase is released until the facilities it requires are in service.

(e) If Smith Land does not deliver the water, or the agreed fee, for a phase, that phase and every later phase do not proceed. The Town has no obligation to provide water to any unit not covered by the ledger, and it keeps every acre-foot already conveyed.

8. WHAT THE ADOPTED STANDARDS COST

The plan meets the standards as adopted. The table below shows the supplemental water those standards require at build-out compared with the alternatives the Board has discussed, so the Board can see what each choice costs in land and water.

Scenario	Demand	Property water credited	Supplemental water at build-out	Approx. acres
(i) As adopted: 300 years, 0.35 per SFE, Laramie-Fox Hills not credited (this plan)	**168.0**	**21.7**	**146.3**	**430**
(ii) As adopted, Property Laramie-Fox Hills credited	168.0	30.0	138.0	405
(iii) 300 years, 0.30 per SFE	144.6	21.7	122.9	360
(iv) 100 years, 0.35 per SFE, Laramie-Fox Hills credited	168.0	90.0	78.0	75
(v) 100 years, 0.30 per SFE, Laramie-Fox Hills credited	144.6	90.0	54.6	55

Acre-feet per year. Acreage at 300 years uses 0.34 acre-feet per acre per year; at 100 years, 1.02. Rounded to the nearest 5 acres.

9. COMPLIANCE WITH THE TOWN CODE

Requirement	How the plan meets it	When
§ 14.11.010: Town does not own enough water for new development	No unit relies on Town water unless the Board elects to provide it	Throughout

Requirement	How the plan meets it	When
§ 14.11.040: dedication of sufficient water	Property water at annexation; supplemental water, or a fee-in-lieu the Board elects, before each phase; units capped by the ledger	Annexation; each phase
§ 14.11.040(A): 300-year life	All water credited at allocation ÷ 300	Each certification
§ 14.11.040(B)(1): 0.35 per SFE	Applied to all 467 SFEs	Each certification
§ 14.11.040(B)(3): 2.5 per irrigated acre	Applied to a 1.8-acre irrigated cap	Each certification
§ 14.11.040(C): 1.5-acre well site	Dedicated on the revised General Development Plan	Annexation
§ 14.11.060: Groundwater Consent Agreement	Draft delivered with Submittal_03	Executed at annexation
§ 14.11.080(A): Commission determination	Property applications filed on the final legal description; supplemental water determined before credit	Before credit
§ 14.11.090: title opinion	Property opinion [date]; opinion on each supplemental acquisition	Before credit
§ 14.11.100: fee-in-lieu	Smith Land's preferred route for the supplemental water, at the Board's election; priced at actual replacement cost, with monitoring and adjustment	Board election

10. COMMISSION AND DISTRICT RULES

The plan uses only Denver Basin bedrock water. It does not use the Big Sandy alluvial aquifer, which DBR 5.2.7 treats as over-appropriated. The Arapahoe and Laramie-Fox Hills water is nontributary, and DBR 5.3.6.2.A requires only that no more than 98 percent of annual withdrawals be consumed. The Denver aquifer water beneath the Property is not-nontributary in an area where DBR 5.3.6.2.B requires replacement of 4 percent of withdrawals to the alluvium, and no Commission replacement plan is needed (MEI Report at 2). The wells will meet the Commission's 600-foot spacing rule (DBR 5.3.7.1) and the District's spacing rules (District Rules 4 and 12.2). They will be metered and reported under District Rule 5, and constructed under the Water Well Construction Rules (District Rule 15; DBR 5.9). All water will be used within the District. Smith Land's letter to the District, sent with Submittal_03, addresses the District's rules in detail.

Prepared by Smith Land Development & Co., LLC, with Kimley-Horn and Associates, Inc. and Fairfield and Woods, P.C. Engineering figures are taken from the MEI Report (Moore Project No. 31289, October 2026) and are to be confirmed by Kimley-Horn and Lytle Water Solutions.

Very truly yours,

Eric K Trout

Eric K. Trout
Fairfield and Woods

Kimley»Horn

November 9, 2026

Cindy Thompkins/Jeff Liljegren
Town Clerk
556 Colorado Avenue
Calhan, CO 80808

RE: ***North Tree Annexation Response to Engineering Review for Town of Calhan***

1. **Multiple 8" Water utility connections shown on the site. Please update legal submittals and development plan to indicate ownership and supplier for water mains. If any of these are to not be from the Town of Calhan, provide that clarification to the city for review.**
   - ***Comment Response:*** It is noted that the extension of all domestic water shown on the General Development Plan is to be provided and maintained by the Town of Calhan. This is now noted on the General Development Plan under general note 6 and labeled on the plan view.

a) Annexation agreement will ensure to detail water service
- ***Comment Response:*** Infrastructure responsibilities, ownership, operation and maintenance requirements, and associated utility agreements will be coordinated with the Town and finalized with the annexation agreement.

b) Provide water main in border streets and tap locations to facilitate future utility connections.
- ***Comment Response:*** Through working with Moore Engineering, two water main connections were identified to connect public water to the Site. These two locations are shown on the General Development Plan.

c) Detail in depth new water rights to be obtained and provided for this project.
- ***Comment Response:***. A defined plan is provided in the updated Preliminary Utility Report and included in the comment response provided by Fairfield and Woods.

d) Provide extension of main around border of site, and possible tap locations. This will be done in McClasky Road and Eurich Road.
- ***Comment Response:*** The General Development Plan shows water main stubs at each of the access points which would provide future utility access to future developments. Based on the connections shown in the Moore Report, there are no plans to provide water main extensions within McClasky and Eurich Road.

2. **Sanitary Sewer utility connection shown on the site. Please update legal submittals and development plan to indicate ownership and supplier for water mains. If any of these are to not be from the Town of Calhan, provide that clarification to the city for review.**
   - ***Comment Response*** It is noted that the extension of all water and wastewater mains shown on the General Development Plan are to be public and maintained by the Town of Calhan. This is now noted on the General Development Plan under general note 6 and labeled on the plan view.

a) **There is a large amount of work being shown to take place in the county. This line must be within city limits.**
   - ***Comment Response:*** The project cannot annex adjacent parcels just to convey a sanitary main. The sanitary main is within prescriptive ROW and can be placed in a utility easement as needed.

b) **As a result of this, if there is to be additional locations annexed into the city, this must be clear as part of this annexation process**
   - ***Comment Response:*** No additional annexation area outside of the property ownership included in the current annexation request is anticipated to be required. Utility easements may be required to serve the project, such easements can be obtained through separate agreements and do not necessitate the annexation of additional land. Accordingly, no additional areas beyond the ownership boundary are proposed to be annexed as part of this annexation application.

c) **Annexation agreement will detail sanitary service.**
   - ***Comment Response:*** Infrastructure responsibilities, ownership, operation and maintenance requirements, and associated utility agreements will be coordinated with the Town and finalized with the annexation agreement. The Preliminary Utility Report shows a clear plan for how the wastewater will be serviced to the project.

d) **To extent feasible, sanitary service will be extended down McClasky Road and Eurich Road.**
   - ***Comment Response:*** The proposed sanitary sewer system is shown extending down McClasky Road towards the treatment plant. This new interceptor is anticipated to be designed to accommodate future development in the area.

3. **Detail all large system upgrades to existing sanitary system and water system. While at this stage the upgrades shall be detailed in schematic form, engineering of these shall occur in a later stage of the development process. Provide language in the general development plan showing these and schematic actions to take place. Ensure as part of general development plan that all off-site improvement are included as additional sheets and not separate documents.**
   - ***Comment Response:*** Comment noted. The General Development Plan depicts a conceptual approach to the proposed water connections at each access point and proposed sanitary sewer extension along McClasky Road. The sanitary extension exhibit previously provided has now been included as Sheet 3.

4. **Drainage is being shown on-site. Provide clarification to outfall location and schematic layout to outfall of pond. If negative effects off-site are anticipated, provide evidence of correspondence to this activity. Written permission to work on off-site property will be needed before any construction permits for this work will be issued if within the town limits.**
   - ***Comment Response:*** The General Development Plan relocates the proposed detention pond to the northeast corner of the Site to capture runoff from the entire development, consistent with existing sheet flow from southwest to northeast. The pond is designed to discharge at a rate below historic conditions. Discharge will enter the existing roadside ditch along the south side of McClasky Road, within the prescriptive ROW, and flow to the large drainageway

east of the Site. The General Development Plan now identifies and labels the associated stormwater pipe, roadside swale, and connection locations. No off-site drainage improvements are proposed under the revised design. Final engineering and design will be completed during subsequent stages of the development process.

a) **Show in schematic form the off-site extension exhibit for the storm sewer connection. If this requires work to take place on another owners property, please provide evidence of correspondence to this activity. Any work that takes place outside of city boundaries shall be presented for annexation as part of this process, as this will create detention easements to ensure flows to creek or regional collection are provided.**
   - ***Comment Response:*** The pond is designed to discharge at a rate below historic conditions. Discharge will enter the existing roadside ditch along the south side of McClasky Road, within the prescriptive ROW, and flow to the large drainageway east of the Site. The General Development Plan now identifies and labels the associated stormwater pipe, roadside swale, and connection locations. No off-site drainage improvements are proposed under the revised design. Final engineering and design will be completed during subsequent stages of the development process.

b) **Current location and topography strongly indicate off-site impacts due to local low points in the region.**
   - ***Comment Response:*** The General Development Plan relocates the proposed detention pond to the northeast corner of the Site to capture runoff from the entire development, consistent with existing sheet flow from southwest to northeast. There is an existing ~2.5' deep roadside ditch that would convey the pond discharge to the larger drainageway. This would avoid needing direct construction impacts to adjacent properties.

5. **See and address TIA mark-ups. Round-a-bout(s) shall be provided as an option for traffic calming.**
   - ***Comment Response:*** See the separate comment response document detailing the responses to the TIA comments. The TIA was revised to assume that a roundabout at Crystola and HWY 24 would be the preferred solution.
6. **Border roads shall be shown to be improved to current developed standards. Standard practice is to improve the half section, but full section may be needed if roads are not in acceptable conditions. This will also require an Intergovernmental Agreement to be completed between Calhan and the County for maintenance and ownership of these streets. Provide as part of plans and annexation agreement how this will be completed.**
   - ***Comment Response:*** The ROW dedications are shown on the General Development Plan. The Annexation Agreement can detail out which parts or halves of the roadway will need to be improved. All previous conversations have included paving and upgrading McClasky but not building out Eurich Road for this project.
7. **Future street classifications and sections are normally shown as part of PUD and preliminary engineering.**

- ***Comment Response:*** This plan will simply identify the future street classification and will not detail any dimensions.

a) McClasky Road shall be classified as a Collector Street

- ***Comment Response:*** McClasky is labeled as Collector on the General Development Plan

b) Eurich shall be classified as an Arterial Street

- ***Comment Response:*** Eurich is labeled as Arterial Street on the General Development Plan

c) Crystola shall be classified as an Arterial Street

- ***Comment Response:*** Crystola is labeled as Arterial Street on the General Development Plan

d) This general plan can either show full detail of these to be evaluated as part of the annexation process. Provide schematic street sections and anticipated street sections for proposed improvements to transportation infrastructure. As of this submittal, all streets are shown to be public. Please confirm intent for proposed streets.

- ***Comment Response:*** It is apparent from the public hearing that the roadway cross sections need to be coordinated with the board and planning commission. This will occur in further PUD and Preliminary Plan. For the purposes of this General Development Plan, the roadway classification is stated, but no dimensions will be provided. These streets are proposed to be public. This will be clarified on the General Development Plan

e) All street sections shall have separate defined sections, and the current collector road(s) may require additional right of way dedicated.

- ***Comment Response***: Understood. For the purposes of this General Development Plan, the roadway classification is stated, but no dimensions will be provided.

f) Else; Details can be removed for future conditions of streets, and current conditions shall be shown. Language in the annexation agreement will make clear that improved conditions of these streets shall be provided initially as part of the PUD and shall go through the review and approval process related to the PUD. Language in annexation agreement will also indicate that there shall not be restrictions to the improvements needed, unless agreed by the town at that stage of review.

- ***Comment Response:*** This option was selected. For the purposes of this General Development Plan, the roadway classification is stated, but no dimensions will be provided.

8. Show FEMA floodplain on plans and add note(s) declaring floodplain impacts on property

- ***Comment Response:*** The park area was modified to fully encompass the 100 Year Floodplain. Added the BFEs to the plan.

Fairfield & Woods P.C.

Eric K. Trout
(303) 894-4440
etrout@fwlaw.com

November 10, 2026

Via Email Only
Jeff Liljegren, AICP, Town Planning Consultant, HR Green (jeff.liljegren@hrgreen.com)
Cindy Tompkins, CMC, Town Clerk, Town of Calhan (townclerk@calhan.co)

Re: North Tree Annexation to the Town of Calhan. Response of Smith Land Development & Co., LLC to the Upper Big Sandy Ground Water Management District's Referral Comments dated September 11, 2026

Dear Mr. Liljegren and Ms. Tompkins:

I represent Smith Land Development & Co., LLC ("Smith Land"), the applicant for the North Tree Annexation. This letter responds to the referral comments of the Upper Big Sandy Ground Water Management District (the "District") dated September 11, 2026, and is submitted as part of the packet of responses that accompanies Submittal_03. The District is represented by Scott P. Krob of the Krob Law Office, LLC, who is copied on this letter, and I ask that he share it with the District's Board and Manager.

The District's September 11, 2026, letter noted that several items in Smith Land's Second Submittal were described as work to be completed, and that the District had not heard from Smith Land since Kimley-Horn's August 17, 2026, response. Most of those items have since been completed or scheduled, and this letter brings the District up to date on each of them.

Enclosed is the North Tree Water Solution Plan (the "Plan") that Smith Land is submitting to the Town of Calhan with its third submittal. The sections below answer the District's questions and explain how the Plan complies with the District's Rules, Regulations and Guidelines (the "District Rules") and with the Commission's Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1 ("DBR").

As the District will see, the Plan uses only Denver Basin bedrock water. It involves no pumping of alluvial water and no replacement plan. Smith Land therefore understands the District's role in this project to be the one its Rules provide for Denver Basin wells: comment on well permit applications referred by the Commission (Rule 21), well spacing (Rules 4 and 12.2), metering and reporting (Rule 5), and export (Rule 3). Smith Land intends to comply fully with each of them, and I am glad to answer any questions the District has about the Plan.

1. STATUS OF THE ITEMS THE DISTRICT IDENTIFIED

The District's letter listed seven items described in the Second Submittal as pending. Their status is as follows.

Item the District identified	Status
Water rights determination from the Ground Water Commission not initiated	Applications for determinations of the Denver, Arapahoe, and Laramie-Fox Hills water beneath the Property will be filed on the final legal description. Copies will go to the District when filed, as District Rule 24 requires. Supplemental water will be determined before it is counted.
Infrastructure improvements "will be" identified	Identified and priced in the Town engineer's Infrastructure Capacity Assessment (Moore Engineering, Inc., October 2026): rehabilitation of the Town's three Laramie-Fox Hills wells, a new Arapahoe production well, wastewater treatment replacement, stormwater, and transportation. Smith Land will fund the water facilities through a metro district and applicable grants (Plan, Section 5).
Water rights and ownership documentation "will be" provided	Title commitment delivered with the third submittal; formal title opinion delivered. A title opinion is also required for each supplemental acquisition before it is counted.
Groundwater Consent Agreement "will be" finalized	Draft delivered to the Town with the third submittal; to be executed at annexation.
Whether an additional well is required "is being" determined	Determined: a new Arapahoe well on a dedicated 1.5-acre well site on the Property, producing before any home beyond the first 62, and a second well before the fourth phase.
Water supply and sufficiency "will be" considered	The Plan quantifies demand and supply at full build-out on the Town's adopted standards and ties each phase to water already dedicated (Plan, Sections 3, 4, and 6).
A water model "is being" developed	The MEI assessment now supplies the Town engineer's capacity analysis.

2. THE 300-YEAR STANDARD

The District asked how the Town's new 300-year standard affects the demand and supply analysis. The Plan is built on it. The Town's Ordinance No. 2026-12 measures Denver Basin water at a 300-year life and residential demand at 0.35 acre-feet per year per single family equivalent ("SFE"). On those standards North Tree's demand at full build-out is about 168 acre-feet per year. The Denver and Arapahoe water beneath the Property supports only 21.7 acre-feet per year, or 62 SFEs. For the difference, about 146 acre-feet per year, Smith Land will acquire Denver Basin groundwater from private sources within the District and convey it to the Town, measured at 300 years, before each phase that needs it, except to the extent the Town elects to provide part of the supply itself or through a fee-in-lieu.

This should matter to the District for a second reason. The Commission allocates Denver Basin water in a designated basin on a 100-year aquifer life (C.R.S. § 37-90-107(7)(a); DBR 5.3.3.1). Because the Town credits only one-third of each allocation, the Town will plan to withdraw each year about one-third of what the Commission will permit. Annual withdrawals from the bedrock aquifers beneath the Property and the supplemental lands will therefore be well below the permitted rate, which serves the aquifer sustainability goal stated in District Rule 10.

3. SOURCE OF SUPPLY: DENVER BASIN BEDROCK WATER, USED WITHIN THE DISTRICT

The Plan uses no water from the Big Sandy alluvial aquifer, which DBR 5.2.7 treats as over-appropriated. It does not use the Town's Railroad alluvial well, which the Town engineer's June

2026 testing found unsuitable as a near-term supply, and it does not seek any new alluvial appropriation. Every acre-foot credited under the Plan is Denver Basin bedrock water: Arapahoe and Laramie-Fox Hills water, which is nontributary, and Denver aquifer water, which is not-nontributary.

All of the water will be used within the Town's service area, inside the District's boundaries, so the Plan involves no export under District Rule 3. Supplemental water will be acquired only from lands within the District.

4. REPLACEMENT

The District's letter identifies replacement as an ongoing concern, and its Round 1 comments asked that any municipal well have a replacement plan approved by the District and the Commission. No replacement plan is required for the Plan's wells, for the following reasons.

(a) Nontributary Arapahoe and Laramie-Fox Hills water. DBR 5.3.6.2.A requires that withdrawals of nontributary Denver Basin water be made so that no more than 98 percent of the water withdrawn each year is consumed. No replacement plan under DBR 5.6 is required.

(b) Not-nontributary Denver water beneath the Property. The Town engineer has determined that the Property lies in the area where DBR 5.3.6.2.B applies, which requires replacement to the alluvium of 4 percent of the water withdrawn, and that no Commission replacement plan is needed (MEI Report at 2). A replacement plan would be required under DBR 5.3.6.2.C only for Denver aquifer water from land within one mile of the alluvium contact, or for Dawson aquifer water, and under DBR 5.3.6.3.A for nontributary water withdrawn through a well located over such water.

(c) District Rules 7 and 10. District Rule 10 states that no new large-capacity well shall be drilled without a replacement plan "as in accordance with Designated Basin Rule 5.2.7." DBR 5.2.7 governs the Upper Big Sandy alluvial aquifer and bars new large-capacity permits in that aquifer without a replacement plan. Rule 10 therefore applies to alluvial wells, not to bedrock wells governed by DBR 5.3. District Rule 7 applies to supplemental and alternate point of diversion wells. The Plan's wells are new wells on the overlying land, permitted under Commission determinations, as DBR 5.3.7 requires.

The 2 percent and 4 percent requirements of DBR 5.3.6.2.A and B are conditions of the Commission's well permits. The Town, as permittee, will meet them as the permits require, and the Commission and the State Engineer administer them. They do not call for a replacement plan, and the Plan does not include one.

5. WATER QUALITY

The District noted that no analysis had been provided of the development's effect on the water quality of the aquifer. The Plan and the Town engineer's assessment address it in five ways.

(a) Well Construction. All wells will be designed and constructed under the Water Well Construction Rules, 2 CCR 402-2, and DBR 5.9, as District Rule 15 requires. Casing and grout will isolate each producing aquifer from the alluvium and from the other bedrock aquifers. Test holes will be completed or plugged to protect all aquifers under District Rule 16, with drilling logs provided to the District.

(b) Wellhead Protection. Each well and any wellhead treatment will be equipped with the protective devices District Rule 17 requires to keep chemicals and treatment materials out of the aquifer.

(c) Central Sewer. Every home in North Tree will be on the Town's sanitary sewer. No individual septic systems will be installed.

(d) Wastewater Treatment. The Town engineer recommends replacing the Town's lagoon system with a mechanical package plant that includes nitrogen removal and can meet the stricter effluent limits that take effect March 1, 2029. It also finds that leakage from the existing unlined gravel filtration pond, which may account for losses of up to 56 percent of flow, should be minimized regardless of the annexation (MEI Report at 9 to 14). The Town is pursuing grant funding for the plant, and the plant would also draw on the Town's tap fees on new connections. The result should be better-quality water returning to the alluvium than today.

(e) Stormwater. Kimley-Horn's preliminary drainage design uses detention to hold peak discharge below existing conditions (MEI Report at 15 to 17). The Town engineer recommends the McClasky Road culvert and drainage improvements, which Smith Land will fund, and construction will proceed under a state stormwater permit with erosion and sediment controls.

6. COMPLIANCE WITH THE DISTRICT RULES

District Rule	How the Plan complies
Rule 3: export	All water used within the District; supplemental water acquired only within the District; no export without prior Rule 3 review.
Rules 4 and 12.2: well spacing	Denver Basin wells at least 600 feet from other large-capacity wells and from small-capacity wells, or with the waivers the Rules allow.
Rule 5: metering and reporting	Totalizing flow meters on every well, tested as the Rule requires; monthly and annual reports by February 1.
Rule 6: replacement wells	The Plan relies on rehabilitation of the Town's existing Laramie-Fox Hills wells, not replacement wells. Any replacement well would be drilled within 300 feet of the original and limited to its appropriation.
Rule 7: supplemental and alternate point of diversion wells	The Plan's wells are new wells on the overlying land (DBR 5.3.7), not supplemental or alternate point of diversion wells. Any later change would be made under the Commission's and the District's rules.
Rule 8: annual appropriation limits	The Town will comply with any limit the Board sets.

District Rule	How the Plan complies
Rule 10: aquifer sustainability	Bedrock water only; planned withdrawals about one-third of the permitted rate (Section 2); no replacement plan required (Section 4).
Rule 13: waste	Metered use; leak detection under the Town's system operations.
Rules 14, 15, 16, 19: permits, construction, test holes, abandonment	Commission permits; licensed drillers; 2 CCR 402-2 construction; logs to the District; plugging under 2 CCR 402-2.
Rule 17: water quality	Protective devices at each well and treatment point (Section 5).
Rules 18 and 21: inspection and permit review	Inspection access as Rule 18 provides; District comment and recommendation on well permit applications as Rule 21 provides.
Rule 24: information to the District	Copies of applications, permits, logs, and beneficial use statements provided when filed.

7. FINANCING

The District's Round 1 comments asked how the water facilities would be financed. The water supply facilities the Plan requires are the Laramie-Fox Hills well rehabilitation (about $600,000), the new Arapahoe well (about $1,860,000), a second well when needed, and any supplemental groundwater. The cost figures are the Town engineer's planning-level estimates, and Smith Land has asked that each be verified by an independent third party before it is relied on. Smith Land expects to fund the facilities through a metropolitan district and applicable grants. The Plan's phase gates mean no home is approved until its water and the well that produces it are in place.

8. FURTHER DISTRICT REVIEW

Smith Land understands that the District reserves its right to provide final comments until the final documents are complete. Copies of the Commission applications will be provided to the District when filed, as District Rule 24 requires, and the District will have the opportunity to comment on the well permit applications under District Rule 21.

Thank you for the District's comments. Please feel free to contact me with any questions.

Sincerely,

Eric K Trout

Eric K. Trout
Fairfield and Woods, P.C.

Enclosure: North Tree Water Solution Plan

cc: Will Vandergriff, Smith Land Development & Co., LLC
Kevin Kofford, PE (Kimley-Horn)

Fairfield & Woods P.C.

Eric K. Trout
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November 10, 2026

Via Email Only

Smith Land Development & Co., LLC
Attn: Will Vandergriff, President
29415 Calhan Place
Calhan, CO 80808
will@vandergriffcontractors.com

Re: Groundwater Title Opinion, North Tree Annexation, Town of Calhan

To Whom It May Concern,

Pursuant to an annexation application with the Town of Calhan (the "Town") for the North Tree Annexation, Smith Land Development & Co., LLC ("Smith Land") has agreed to convey to the Town all the groundwater rights underlying a 95.9989-acre parcel of land located in the NW¼ of Section 2, Township 12 South, Range 62 West of the 6th P.M., El Paso County, Colorado, being all that portion of said NW¼ lying north of the center of track of the former Chicago, Rock Island and Pacific Railroad right-of-way, as depicted on the North Tree Annexation Map prepared by Kimley-Horn and Associates, Inc., and identified by the El Paso County Assessor as Schedule No. 2202200009 (the "Property").

This letter is provided in response to the request of the Town's water counsel for a formal title opinion pursuant to Section 14.11.090 of the Calhan Municipal Code. This letter renders our opinion, based on the examination described below, as to the current status of title to the groundwater underlying the Property for the period from July 26, 1993, to November 9, 2026 (the "Effective Date"), which is greater than the eighteen-year statutory adverse possession period under C.R.S. § 38-41-101. This letter does not offer any opinion on whether the groundwater provides sufficient quantities of water necessary for the Town's uses. Except to the extent necessary to establish that Smith Land is the record owner of the overlying land, upon which ownership of the groundwater depends, this letter does not provide any opinion regarding title to the Property. Finally, we did not review or analyze any documents related to any water quality issues or compliance with any state or local requirements regarding water quality. This letter renders our opinion that, based on the examination below and subject to the exceptions and limitations stated herein, Smith Land has good and marketable title to the groundwater described in this letter.

This opinion is intended only for the use of Smith Land and the Town in connection with the above-mentioned transaction. No other person is entitled to rely upon the opinions expressed herein now or at any time in the future.

DESCRIPTION OF THE GROUNDWATER RIGHTS

The groundwater being conveyed includes all of Smith Land's right, title, and interest in and to the following groundwater, including all beneficial right, title and interest in and to all water, whether tributary, nontributary, or not-nontributary, water rights, rights to use water, and all other assets, rights, title or interests represented by said water rights, historically used upon,

decreed or permitted for use on, or otherwise appurtenant to the real property more particularly described herein.

The Property lies within the Upper Big Sandy Designated Ground Water Basin and within the boundaries of the Upper Big Sandy Ground Water Management District, in Water Division 2. Groundwater in the Denver Basin aquifers underlying the Property is designated ground water, and rights to withdraw it are allocated by the Colorado Ground Water Commission on the basis of ownership of the overlying land. C.R.S. § 37-90-107(7). The Division of Water Resources Bedrock Aquifer Evaluation Determination Tool Report dated April 22, 2024, confirms that the Property lies within a Designated Basin Area and provides the following estimated average annual appropriations for the Denver Basin aquifers underlying the Property:

- Denver Aquifer (Not-nontributary): approximately 28.6 AF/yr
- Arapahoe Aquifer (Nontributary): approximately 33.6 AF/yr
- Laramie-Fox Hills Aquifer (Nontributary): approximately 31.4 AF/yr

The report does not identify any saturated Upper or Lower Dawson aquifer underlying the Property.

Because the Denver Basin groundwater underlying the Property has not been determined by the Ground Water Commission or otherwise formally quantified, it remains in an inchoate condition. In this setting, "inchoate" reflects that title to the groundwater estate follows and is vested in the owner of the overlying land, but the precise volume legally available for withdrawal has not been fixed by Ground Water Commission determination, decree, or final permitting action. The Division of Water Resources estimate is an administrative calculation derived from statutory allocation formulas and mapped aquifer characteristics; it does not establish a vested right in any specific quantity. We are not aware of any Ground Water Commission determination, water court decree, or other formal quantification of the Denver Basin groundwater attributable to the Property. Any final, legally enforceable withdrawal amounts would be established through the applicable Designated Basin determination and permitting process.

Note regarding acreage: The April 22, 2024, report was run on 91.15 acres, consistent with the El Paso County Assessor's records for Schedule No. 2202200009. The North Tree Annexation Map reflects 95.9989 acres by survey. The vesting deeds described below do not convey the Property by acreage; they describe it by reference to the NW¼ of Section 2 and the center of track of the former railroad right-of-way, and the groundwater conveyed with the land is the groundwater underlying the land so described, whatever its measured acreage. This difference therefore does not affect title. Any Ground Water Commission determination would be expected to rely on the surveyed acreage, and the estimated annual amounts above would be expected to increase approximately in proportion.

Because the recorded chain of title reflects no severance or reservation of groundwater, and no quantification of the groundwater has been identified, the groundwater estate remains

appurtenant to and runs with the land. Any future development, permitting, or allocation of such groundwater must comply with the statutes, rules, and jurisdiction governing the Designated Basin in which the Property is located, including C.R.S. § 37-90-107(7) and the rules of the Colorado Ground Water Commission, 2 CCR 410-1, and with the rules of the Upper Big Sandy Ground Water Management District.

DESCRIPTION OF WELL RIGHTS

Our review of the Division of Water Resources well permit records and Hydrobase did not identify any well permit, decreed structure, or Ground Water Commission determination associated with the Property. Accordingly, no existing well rights are included in, or excluded from, the opinions expressed in this letter.

CHAIN OF TITLE

The Property consists of two components that came into the chain of title by separate instruments and were joined in the 2002 conveyances described below: (a) the land in the NW¼ of Section 2 lying north of the former railroad right-of-way (the "Main Parcel"); and (b) a strip of land 100 feet in width consisting of the northeasterly half of the former 200-foot Chicago, Rock Island and Pacific Railroad right-of-way where it crosses the NW¼ (the "Railroad Strip"). The south boundary of the Property, as shown on the North Tree Annexation Map, is the centerline of the former right-of-way, which is also the southerly line of the Railroad Strip.

Smith Land's title to the Property and groundwater derives from a Quitclaim Deed dated July 19, 2002, and recorded on July 23, 2002, at Reception No. 202119491 of the El Paso County, Colorado real property records, from William Vandergriff and Sonya Vandergriff. The deed describes "all that portion of the Northwest Quarter of Section 2, lying north of the center of track of the Old Chicago, Rock Island and Pacific Railroad Right of Way," which includes both the Main Parcel and the Railroad Strip, and conveys the land together with all estate and rights of the grantors in the land and all rights and appurtenances belonging to it. The deed contains no reservation or exception of water, water rights, or groundwater. Smith Land was organized as a Colorado limited liability company on April 15, 2002 (Colorado Secretary of State ID No. 20021095180), before the date of the conveyance, and is in good standing as of November 9, 2026. Note: Sonya Vandergriff's acknowledgment is dated July 16, 2002, three days before the stated date of the deed. This does not affect the validity of the conveyance; both grantors signed and acknowledged the deed, and it was delivered and recorded.

William Vandergriff and Sonya Vandergriff, as joint tenants, derived their title from a Warranty Deed dated May 1, 2002, and recorded on May 3, 2002, at Reception No. 202073174 of the El Paso County, Colorado real property records, from Raymond J. Balsick aka Raymond Balsick and L. Louise Balsick aka Louise L. Balsick aka Lorraine Louise Balsick, as to a life estate, and Adam M. Balsick, as to the remainder, for a stated consideration of $250,000. The deed uses the same legal description, extending to the center of track of the former railroad right-of-way, and conveys the land with all hereditaments and appurtenances. The deed is made subject only to general taxes for 2002 and the customary exceptions for easements, reservations,

restrictions, covenants, and rights-of-way of record, if any, distribution utility easements, unrecorded matters of which the grantees had actual knowledge, inclusion in special taxing districts, and declarations, if any. It contains no reservation or exception of water, water rights, or groundwater, and our examination identified no reservation of groundwater of record within the review period to which the general exception could apply. The life estate and remainder held by the grantors were created by the 1994 Warranty Deed described below, which covered both the Main Parcel and the Railroad Strip. Because the holders of both the life estate and the remainder joined as grantors, the 2002 Warranty Deed conveyed the entire fee simple estate in the Property.

Raymond J. Balsick and L. Louise Balsick held the life estate, and Adam M. Balsick held the remainder, under a Warranty Deed dated June 1, 1994, and recorded on June 2, 1994, at Reception No. 094075985 (Book 6459, Page 36) of the El Paso County, Colorado real property records, by which Raymond J. Balsick aka Raymond Balsick and L. Louise Balsick aka Lorraine Louise Balsick aka Louise L. Balsick conveyed to Adam M. Balsick, as a gift, "all that portion of the Northwest Quarter of Section 2, lying North of the center of track of the old Chicago, Rock Island and Pacific Railroad right-of-way," together with other lands in Township 11 South, Range 62 West that are not part of the Property. Because the deed describes the land to the center of track, it included both the Main Parcel and the Railroad Strip. The deed expressly reserves to the grantors, or the survivor of them, "the entire use and possession" of the land "and all appurtenances thereto," and all rents, issues, and profits from it, for and during their lifetime. That reservation is a life estate in the land and its appurtenances; it is not a severance of the groundwater from the land, and it was extinguished when the life tenants and the remainderman joined in conveying the fee to the Vandergriffs by the 2002 Warranty Deed. The deed is otherwise made subject only to taxes for 1994 and following years, and it contains no reservation or exception of water, water rights, or groundwater.

The 1994 Warranty Deed is the earliest instrument in the chain of title to the Main Parcel identified within the review period; Raymond and Louise Balsick's acquisition of the Main Parcel predates the review period. Our search of the grantor index for Balsick from July 26, 1993, forward identified no instrument by which they severed, reserved, or conveyed the groundwater underlying the Main Parcel, other than the 1994 Warranty Deed and the 2002 Warranty Deed described above.

Raymond Balsick and Louise L. Balsick acquired the Railroad Strip by a Special Warranty Deed dated July 13, 1993, and recorded on July 26, 1993, at Reception No. 002327291 (Book 6221, Page 1446) of the El Paso County, Colorado real property records, from Lincoln Branch, Inc., a Nebraska corporation. The deed conveys a strip of land 100 feet in width, being the northeasterly half of the former Chicago, Rock Island and Pacific Railway corridor upon and through the NW¼ of Section 2, containing 6.15 acres more or less, together with all hereditaments and appurtenances. The only reservation in the deed is a temporary right of ingress and egress for the grantor to remove metallics, ties, and bridges, which expired by its terms on November 30, 1993. The deed contains no reservation or exception of water, water rights, or groundwater. The North Tree Annexation Map identifies the source of the former right-of-way as a Quitclaim Deed recorded September 7, 1984, in Book 3914 at Page 1082 of the El Paso County records, which predates the review period.

Within the review period, we identified no instrument by which any owner in the foregoing chain severed, reserved, conveyed, leased, or consented to the withdrawal of the groundwater underlying the Property, and no instrument of record by which any Balsick, Vandergriff, or Smith Land purported to convey groundwater underlying the Property separately from the land.

CONCLUSION

In summary:

1. This letter renders our opinion that, based on the examination above and subject to the exceptions and limitations stated herein, Smith Land has good and marketable title to the groundwater underlying the Property as the record owner of the overlying land.
2. The chain of title reflects no severance, reservation, or separate conveyance of groundwater from the Property during the review period, which runs from July 26, 1993, to the Effective Date and exceeds the eighteen-year statutory period under C.R.S. § 38-41-101.
3. The groundwater underlying the Property, including both the Main Parcel and the Railroad Strip, remains appurtenant to and owned with the overlying land, currently held by Smith Land Development & Co., LLC.
4. Our examination identified no deed of trust, mortgage, judgment, lien, or UCC filing of record encumbering the Property or the groundwater.
5. The Property lies within the Upper Big Sandy Designated Ground Water Basin and the Upper Big Sandy Ground Water Management District. Rights to the Denver Basin groundwater underlying the Property are allocated by the Colorado Ground Water Commission on the basis of ownership of the overlying land under C.R.S. § 37-90-107(7).
6. The only available volumetric information consists of the April 22, 2024, Division of Water Resources administrative estimates, which were run on 91.15 acres and are not determined or decreed amounts.

This letter is based solely on the documents provided and the public records referenced above.

SCOPE OF EXAMINATION

During our investigation of title to the groundwater, we performed the following work:

- We searched the El Paso County Clerk and Recorder's online grantor and grantee indices from July 26, 1993, to the Effective Date of this review, for any documents or instruments referencing Balsick, Vandergriff, Smith Land Development & Co., LLC, Lincoln Branch, Inc., and all variants thereof, as either grantor or grantee.
    - All instruments identified by the foregoing search were downloaded and reviewed, including the instruments recorded at Reception Nos. 002327291, 094075985, 202073174, and 202119491, and the instruments of record for the

adjoining Balsick parcels shown on the North Tree Annexation Map (Reception Nos. 213039793 and 219139282), which we reviewed to confirm that none purports to convey or reserve groundwater underlying the Property.

- We reviewed the El Paso County Assessor's records for Schedule No. 2202200009.
- We reviewed the Colorado Division of Water Resources online well permit records and Hydrobase, and the Division of Water Resources Bedrock Aquifer Evaluation Determination Tool Report dated April 22, 2024.
- We reviewed the North Tree Annexation Map prepared by Kimley-Horn and Associates, Inc.
- We reviewed the Colorado Secretary of State's business records for Smith Land Development & Co., LLC, and searched the Colorado Secretary of State's UCC records by "Debtor Name" for Smith Land Development & Co., LLC.

This letter does not provide a full title review of the Property, but only an opinion as to title to the groundwater based on the publicly available documents stated above.[1] Our analysis may change based on the discovery of additional documents not currently available on those public websites.

EXCEPTIONS AND LIMITATIONS

Our opinion herein is limited to issues revealed by the documents we have reviewed. Other documents may exist that could affect title to the groundwater, but without knowledge of such documents we cannot assess any potential impact as to title. The following matters are expressly excluded from the scope of this review, and we offer no opinion as to:

- Any encumbrance or adverse claim arising from any document recorded after the Effective Date.
- Any encumbrance or adverse claim arising from any recorded or unrecorded document not specifically identifying Smith Land Development & Co., LLC, or a predecessor in title named in this letter.
- Any encumbrance or adverse claim arising from any document affecting title to the groundwater that is not of record or not properly indexed in the office of the El Paso County Clerk and Recorder or any other applicable county.
- Any encumbrance or exception arising out of fraud, forgery, or misrepresentation in connection with the documents reviewed.

[1]Because we have no way of knowing whether the El Paso County Clerk and Recorder's Office has uploaded to its website all relevant documents it physically has in its office, we cannot issue any opinion on title without physically confirming our research at the El Paso County Clerk and Recorder's Office.

- Any encumbrance or exception arising from reservations, exceptions, and rights-of-way as contained in any United States patent.
- Any encumbrance or exception arising from taxes or assessments of any type, due or payable.
- Any encumbrance arising from the inclusion of land in any municipal or quasi-municipal boundaries, including the Upper Big Sandy Ground Water Management District.
- Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
- Any loss, damage, limitation of use, or devaluation of the groundwater resulting from or related to administration under Colorado's priority system or the Colorado Ground Water Management Act, waste, abandonment, physical supply, water quality, drought, development of conditional water rights, existing or unasserted reserved water rights for federal lands or Indian reservations, interstate compact, federal treaty, local, state, or federal law or regulations, future actions to determine or adjudicate water rights, historical use and consumptive use, expansion of use, or matters contained in any decree of the Water Court or determination of the Ground Water Commission.
- Any encumbrance or exception arising from claims to the groundwater that are adverse to the title of the persons named as claimants in any decree or determination of those water rights. Under Colorado law the adjudication or determination of a water right does not conclusively establish the claimant as the owner of that water right, and this opinion must therefore be qualified accordingly.
- The legality of use of the groundwater for any particular purpose, or the transferability of the groundwater to different purposes or locations.
- Any discrepancies between the actual and permitted or decreed location of any well or other structure related to the groundwater.
- Title to easements or rights of access to the points of diversion or along ditches or other structures used to divert or convey the groundwater.
- Any facts or circumstances which may be evident upon inspection of any well or other structures or facilities used to divert and convey the groundwater.

Please feel free to call if you have any questions regarding any of the matters discussed in this letter.

Sincerely,

Eric K Trout

Eric K. Trout
Fairfield & Woods, P.C.