

February 25, 2026

Via Email Only

Smith Land Development & Co., LLC
ATTN: Will Vandergriff
29415 Calhan Pl
Calhan, CO 80808
will@vandergriffcontractors.com

Re: Groundwater Review – Smith Land Annexation

To Whom It May Concern,

Pursuant to an annexation application with the Town of Calhan (the “Town”), 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 generally located in the NW1/4 of Section 2, Township 12 South, Range 62 West of the 6th P.M., El Paso County Colorado (the “Property”).

This letter renders our opinion, based on the examination as described below, as to the current status of the groundwater between the period of June 2, 1994, to February 12, 2025, (the “Effective Date”), which is greater than the statutory adverse possession period. This letter does not offer any opinion on whether the groundwater provides sufficient quantities of water necessary for the Town uses. 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 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 WATER 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 therein.

Pursuant to the Division of Water Resources Bedrock Aquifer Evaluation Determination Tool Report Dated April 22, 2024, it was confirmed that the Property lies within a Designated Basin Area and provides estimated annual appropriations for certain 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

Because the Denver Basin groundwater underlying the Property has not been adjudicated 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 decree, Ground Water Commission order, 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, decreed water right in any specific quantity. Until wells are permitted and constructed in accordance with applicable Designated Basin procedures, and any required approval of the Ground Water Commission is obtained, the groundwater interest remains unperfected and unquantified.

We are not aware of any water court decree, Ground Water Commission order, or other formal adjudication establishing the quantity of Denver Basin groundwater attributable to the Property. The volumes reflected in the DWR report therefore constitute estimates only, based on average saturated thickness and statutory allocation assumptions. Any final, legally enforceable withdrawal amounts would be determined through the applicable Designated Basin permitting process and, if required, formal adjudication.

Because the recorded chain of title reflects no severance or reservation of groundwater, and no adjudicated quantification 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.

CHAIN OF TITLE

Smith Land’s title to the Property and groundwater derives from 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.

William Vandergriff and Sonya Vandergriff, as joint tenants, derived their ownership 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.

Raymond J Balsick aka Raymond Balsick and L. Louise Balsick aka Louise L. Balsick derived their ownership from a Warranty Deed dated June 1, 1994, and recorded on June 2, 1994, at Reception No. 094075985 of the El Paso County, Colorado real property records.

CONCLUSION

In summary:

1. The chain of title seems to reflect no severance of groundwater from the Property.
2. The groundwater underlying the Property appears to remain appurtenant to and owned with the overlying land, currently held by Smith Land Development & Co., LLC.
3. The Property lies within a Designated Basin Area.
4. The only available volumetric information consists of the April 22, 2024, DWR administrative estimates, which are not judicially quantified amounts.

This letter is based solely on the documents provided and the public records referenced above, and is not a title opinion.

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 June 2, 1994, to the Effective Date of this review, for any documents or instruments referencing Balsick, Smith Land, and all variants thereof, as either grantor or grantee.
 - All instruments identified by the foregoing search were downloaded and reviewed.
- We reviewed the Colorado Division of Water Resources online well permit records.
- We 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 water rights associated with the annexation agreement, but only an analysis of the current status of the groundwater based on those publicly available documents stated above.¹ Our analysis may change based on the discovery of additional documents not currently available on those public websites.

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.

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.
- 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.
- 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 of any type, due or payable.
- Any encumbrance arising from the inclusion of land in any municipal or quasi-municipal boundaries.
- 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, 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 adjudicate water rights, historical use and consumptive use, expansion of use, or matters contained in any decree of the Water Court.
- Any encumbrance or exception arising from claims to the groundwater that are adverse to the title of the persons named as claimants in the decrees adjudicating those water rights. Under Colorado law the adjudication 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.

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- The legality of use of the groundwater for any particular purposes other than those decreed for the Rights, or the transferability of the groundwater to different purposes or locations.
- Any discrepancies between the actual and decreed location of the groundwater or other structures 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 water pursuant to 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
Fairfield and Woods, P.C