COLORADO
Division of Water Resources
Department of Natural Resources

July 21, 2025

Lisa Elgin, Project Manager
El Paso County Development Services Department
Sent via online portal at: https://epcdevplanreview.com/Agencies/Home

Re: Red Rock Acres Subdivision
File #: SF2513
Part of NE ¼ of the SW ¼ of Sec. 9, Twp. 11S, Rng. 67W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 34223

Dear Lisa Elgin,

We have received additional information concerning the above-referenced proposal to subdivide a 14.96-acre portion of two existing lots into 5 new single-family lots. The anticipated water supply will be provided by on-lot wells completed into the Denver aquifer with wastewater returning through on-lot septic disposal systems.

Water Supply Demand

The Water Resources Report, dated April 15, 2025, indicates that maximum anticipated water supply to each lot will be 0.952 acre-feet for all anticipated uses. This equates to a maximum water supply of 4.76 acre-feet per year for the entire subdivision.

Source of Water Supply

The anticipated water supply is to be provided by on-lot wells producing from the Denver aquifer. The wells producing from the Denver aquifer will operate pursuant to the Division 2 Water Court decree in Case No. 2024CW3020.

According to the decree entered by the Division 2 Water Court in case no. 2024CW3020, the following amounts of water shown in Table 1, below, were determined to be available underlying the larger 54.5-acre property.

Table 1

Aquifer	Tributary Status	Volume (AF)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Denver	NT	1,428	14.3	4.76
Arapahoe	NT	4,355	43.6	14.53
Laramie-Fox Hills	NT	1,505	15.1	5.0

Division 2 Water Court case no. 2024CW3020 allows for diversion of 4.76 acre-feet annually from the Denver aquifer for a maximum of 300 years.

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

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

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

The State Engineer's Office does not have evidence regarding the length of time for which this source will "meet the average annual demand of the proposed subdivision." However, treating El Paso County's requirement as an **allocation** approach based on three hundred years, the annual estimated demand for all lots being served by an on-lot well at the Red Rock Acres subdivision is 4.76 acre-feet as allowed by the Division 2 Water Court case no. 2024CW3020. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Additional Comments

Should the development include construction and/or modification of any storm water structure(s), the Applicant should be aware that, unless the storm water structure(s) can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR's *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, available online at: https://dnrweblink.state.co.us/dwr/0/edoc/3576581/DWR_3576581.pdf?searchid=978a5a31-ddf9-4e09-b58c-a96f372c943d, to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.

State Engineer's Office Opinion

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

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

Our opinion is qualified by the following:

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

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

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

Sincerely,

Ivan Franco, P.E.
Water Resource Engineer