

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

January 17, 2013

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Juan José Gonzales, on the above-cited date at approximately 4:10 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Juan José Gonzales, Chair
Susan Martin, Vice Chair
Phil Anaya
Dan Drobnis
Frank Katz
Sef Valdez

Member(s) Excused:

Maria DeAnda

Staff Present:

Steve Ross, County Attorney
Rachel Brown, Deputy County Attorney
Vicki Lucero, Building & Development Services Manager
Wayne Dalton, Building & Development Services Supervisor
Jose Larrañaga, Development Review Specialist
Mike Romero, Development Review Specialist
Buster Patty, Fire Captain
Karen Torres, County Hydrologist
Penny Ellis-Green, Land Use Administrator

IV. APPROVAL OF THE AGENDA

Vicki Lucero noted New Business case #V 12-5360, Henry Sanchez Variance, was tabled. Additionally, she said a translator will be present for the Perla Rascon case around 5:00 and asked that that case be heard as close to 5:00 as possible.

Member Martin moved to approve the agenda as amended. Her motion was seconded by Member Katz and passed by unanimous [6-0] voice vote.

V. APPROVAL OF THE MINUTES: December 20, 2012

Member Drobnis clarified his intent on page 6: "Member Drobnis said he was aware of the difficult relationship between the EAWSD and OSE at times."

With that change Member Katz moved to approve the minutes. His motion was seconded by Member Martin and passed by unanimous [6-0] voice vote.

VI. OLD BUSINESS

A. CDRC CASE # Z/S 08-5430 Spirit Wind West Subdivision. Joseph Miller, Applicant, Danny Martinez, Agent, Requests Master Plan Zoning Approval for a 39-Lot Residential Subdivision on 133.73+ Acres and Preliminary and Final Plat And Development Plan Approval for Phase 1, Which Will Consist of 16 Lots. The Property is Located South of Eldorado, on the East Side of US 285, off Old Lamy Trail (CR 33), Within Section 5, Township 14 North, Range 10 East And Section 32, Township 15 North, Range 10 East, Commission District 4 [Exhibit 1: Staff Memo; Exhibit 2: Viklund-Galloway Letter; Exhibit 3: Sommer/Karnres Letter]

Ms. Lucero announced this case was on the agenda for deliberation only, having been tabled following public hearing and discussion at the previous meeting. The County Hydrologist is present to give an explanation on questions raised about water. The appellate court mediator, Robert Rambo, is also present to provide a summary of the January 10th neighborhood meeting. The Office of the State Engineer informed staff that the point of diversion was approved. Staff is recommending approve of master plan zoning and preliminary and final plat and development plan approval of phase 1, subject to three conditions,

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.

Plus a further condition:

4. The letter of commitment from the Eldorado Area Water & Sanitation District shall be amended to include water service for the 39th lot prior to plat recordation prior to recordation of phase 1.

County Hydrologist Karen Torres stated she read the March 7, 2012 letter from the OSE. Member Drobnis said he believed there was a more recent letter. Ms. Torres indicated she does not have a copy of a later letter but has seen the permit of Well #18 for 200 acre-feet. This well, which is across from the Agora is for the entire water system. The point of diversion is that well.

Duly sworn, Robert Rambo said he attended but did not facilitate the January meeting. He has been mediating the case, resulting in a settlement agreement regarding the affordable housing. Mr. Miller has agreed to bury the propane tanks and exclude mobile homes.

Citing the favorable response from the State Engineer, Member Katz moved to approve the request with the conditions plus the fourth conditions. Member Valdez seconded and the motion carried unanimously [6-0]. [Subsequently, Member Martin changed her vote to a nay vote, resulting in a 5-1 vote. See page 15.]

There was disagreement from audience members regarding the representations made. Chair Gonzales said the case will go in front of the BCC, probably in March

VII. NEW BUSINESS

A. CDRC Case #V 12-5430 Susan Sutton Variance. Susan Sutton, Applicant, Requests a Variance Of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow Two Dwelling Units on 2.492 Acres. The Property is Located At 8 Ute Lane, Within Section 20, Township 16 North, Range 10 East, Commission District 4

Mike Romero gave the staff report as follows:

“The subject lot was created in 1974, and is recognized as a legal non-conforming lot. There are currently two dwelling units on the subject property. The structures consist of a main residence, a studio containing a kitchen and bathroom, and a shed. There are no records of the main residence or the studio being permitted by Santa Fe County.

“On October 19, 2012, Santa Fe County Building and Development Services Department received a written complaint regarding the Applicant’s studio. On October 25, 2012, the Applicant received a Notice of Violation from Santa Fe County Code Enforcement for Exceeding Density requirements.

“The Applicant states that when she bought the property at 8 Ute Lane in 2007 the house was listed below the appraisal value and the property was advertised as is, having a main house and a heated studio with a kitchen and bathroom. According to the Applicant’s knowledge the house was built in the early 1970’s and the original owners lived there from 1974 to 1988. The property has since been sold

five times since the original owners sold the property in 1988. The Applicant has obtained information that the studio was built in 1991 by the second owner of 8 Ute Lane.

“The Applicant has stated she has spent thousands of dollars on repairs to bring the main residence and the studio up to code. At this time the Applicant has a roommate who is ill that lives in the main residence, which she is helping care for. The Applicant has rented the studio to a nurse who provides medical assistance to the roommate. The Applicant feels she should not be held accountable for the structure – studio, that has been on the property for years and to her knowledge has never been challenged as being an illegal structure.”

Mr. Romero stated staff is recommending denial of a variance from Article III, §10, Lot Size Requirements, of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for all structures on the property (As per Article II, § 2).
3. The placement of additional dwelling units or Division of land is prohibited on the property (As Per Article III, Section 10).
4. The Applicant shall comply with all Fire Prevention Division requirements (As per 1997 Fire Code and 1997 Life Safety Code).

In response to a question by Member Martin, Mr. Romero said C.S. Schatz submitted the complaint.

Member Drobis asked about documentation regarding when the buildings were constructed. Mr. Romero said they have been unable to find proof that either structure was permitted. He said he was informed by the applicant that the main residence was built in the early seventies.

Chair Gonzales remarked that normally utility companies require County approval and inspection before hooking up services. Mr. Romero said they are usually hooked up when they are first built but in this case there is no record of utility hookup. The lot was created in 1974, before creation of the code.

Duly sworn, Susan Sutton gave a history of the property as she understood it, and pointed out she now has a permanent restraining order against Ms. Schatz, the woman who filed the complaint due to numerous problems. She has letters of support from all of

her neighbors. She has aerial photos that show the studio was built between 1988 and 1992.

Ms. Sutton said she wants the variance because she can't turn back 20 years. She has improved the property at great expense. Contrary to the complaint, she did not build the studio. It does not interfere with the neighborhood or environment. She has met with the Fire Department in order to comply with requirements.

Member Drobnis asked about the areas blanked out in the letter of intent. Mr. Romero said that was private medical information.

Ms. Sutton said there are four letters of support. The property has one septic system that was serviced this spring.

There was no one from the public wishing to speak.

Member Drobnis asked the applicant if the person in the studio could live there without the kitchen. Ms. Sutton said she could not.

Member Valdez moved to approve the variance request with staff conditions. Member Anaya seconded.

Member Katz pointed out this was not a self-inflicted condition.

The motion passed by 5-1 voice vote with Member Drobnis casting the nay vote.

VII. B. CDRC Case #MIS 12-5440 Perla Rascon. Perla Rascon, Applicant, requests the recognition of a 0.95-acre parcel as a legal lot of record. The property is located at 65B Loma Vista Road, in the vicinity of La Puebla, within Section 4, Township 20 North, Range 9 East, Commission District 1

Wayne Dalton gave the following staff report:

“The Applicant requests the recognition of a 0.95-acre parcel as a legal lot of record. The property is currently vacant.

“An aerial photograph taken in 1992 shows an existing residence and two sheds on the property. An aerial taken in 2005, shows the same three structures that are located on the subject property. There is a permit associated with the address of 65B Loma Vista under permit, #96-1674, for an addition to a mobile home. However, after conducting an inspection of the property, staff has found the property to be vacant.

“Taxes have been paid on the 0.95-acre portion of property since 1986 and the Applicant has submitted deeds dating back to 1984. It appears the 0.95-acre lot

was created through deed as depicted on the Warranty Deed recorded on April 23, 1984.

“Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request. The Applicant has not provided sufficient documentation that the 0.95-acre parcel was in existence prior to 1981, so recognition as a legal lot is not substantiated. Without recognition as a legal lot of record, the Applicant will be unable to obtain any type of development permit from Santa Fe County.

Mr. Dalton said staff was recommending denial for approval of a 0.95-parcel as a Legal Lot of Record.

Member Katz referred to Section 4.4 outlining procedure for securing approval for lots created prior to the code that do not meet the lot size requirements. However, in this case the lot is greater than the minimum lot size. “Why are we here?”

Mr. Dalton said the applicant has not been able to prove this lot was in existence when the code went into effect. The earliest deed is from 1984.

Deputy County Attorney Rachel Brown agreed that the provision cited does apply only to undersized lots.

Member Valdez asked if the lot was created illegally and Mr. Dalton said in essence it was; it was created through deed in 1984, even though it is notarized at the County. However, the process occurred after 1981 when the code was created. He said they were unable to find an earlier deed. He said no family transfer appears to have been involved.

Mr. Dalton stated Ms. Rascon needs a legal lot of record in order to go through the land use application process. She can't do that because she can't prove this lot was in existence prior to 1981. She needs to provide a survey, which she cannot do she doesn't have a legal lot of record.

Ms. Brown outlined the remedy as surveying the entire property, identifying the separate property Ms. Rascon is trying to create. Chair Gonzales pointed out this would be a burdensome solution.

Mr. Dalton described this as a patent lot from 1951 so there is no plat of survey for this lot. Member Anaya asked if this meant the adjoining properties are not legal lots either and Mr. Dalton said this could be true, and the original owners are deceased. He added anyone can go into the County Clerk's Office and record a warranty deed.

Perla Rascon, speaking through an interpreter and duly sworn, stated she wants to put a house on her property which she can't do until the lot is made legal.

Member Katz asked if the applicant had looked into getting a survey done and Ms. Rascon said she hadn't gotten that far through the process. She said when she sought permission last year to build a fence she was told she had to go through this process first. She bought the lot in 2008 and there were no structures, only a foundation.

There was no one from the public wishing to speak.

Member Martin moved to approve the lot as a legal lot of record. Member Katz seconded and the motion carried unanimously [6-0].

Member Valdez recommended that Ms. Rascon get a survey to in order to get title insurance.

[The committee recessed from 5:20 to 5:30.]

D. CDRC Case #V/Z/PDP 12-5340. Glenwood Development Company, Applicant, request Master Plan and Preliminary Development Plan approval for an 8,320 square foot structure to be utilized as a Family Dollar Store on 0.87 acres. The request includes Final Development Plan be approved administratively. The Applicant also requests a Variance of Article III, § 4.4.3c (Parking Lot Location) to allow the parking lot to be located in front of the proposed building and a Variance of Article VIII, §'s 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to allow a sign to exceed the height and set back requirements and to allow a wall mounted sign to exceed 70 square feet in sign area. The property is located at 18094 US 84/285, within the Pojoaque Valley Traditional Community, within Sections 6 & 7, Township 19 North, Range 9 East, Commission District 1

Jose Larrañaga gave the following staff report:

“The Applicant requests Master Plan Zoning and Preliminary Development Plan approval on a site known as Al’s Liquors within the Pojoaque Valley Mixed Use Traditional Community. The existing non-conforming structure, which is sited on .45 acres, will be demolished and a lot line adjustment with an adjoining parcel, is proposed to allow for an 8,320 square foot structure to be utilized as a Family Dollar Store on 0.87 acres. The Applicant also requests that Final Development Plan be approved administratively.

“The Applicant also requests a variance of Article III, § 4.4.3c to allow the parking lot to be located in front of the proposed building. The Applicant states: “placing the parking lot to the front of the site provides separation of parked cars, noise and public activity from the neighboring residential properties; provides increased public safety and reduced criminal activity; allows for efficient on-site circulation of service and delivery activities”.

Article III, § 4.4.3c Parking Lot Location states: parking lots shall be placed or oriented on a site to the rear or side of buildings (or both) to encourage pedestrian safety and convenience.

“The Applicant also requests variances of Article VIII, §’s 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to allow a sign to exceed the height and set back requirements and to allow a wall mounted sign to exceed 70 square feet in sign area. The Applicant is proposing a freestanding sign, 20 feet in height, to be located 5 feet from the property line. The Applicant also proposes a 174 square foot wall mounted sign. The Applicant states: strict compliance with the code would result in hardship to the development due to the existing conditions and location of the site; clear site identification is imperative to the viability of the development and the safety of its customers and employees; the increase of the height of the pylon sign and square footage of the wall mounted sign will provide a safer way for customers and employees to find the Family Dollar.

“Article VIII § 7.3.a states: “the maximum allowable sign height for a free standing sign located at the front property line is five feet. Sign height may be increased a maximum of five feet in height for each twenty-five feet the sign is set back from the front property line. Maximum allowable sign height shall not exceed twenty-five feet”. A sign 20 feet in height requires a setback of 75 feet from the property line

“Article VIII § 7.8 states: “all free standing signs shall have a base area equal in length to the sign's length along its longest side, and not less than two feet in width and sixteen inches in height, to be installed and maintained by the owner using one or combining both of the following: a banco, planter or a low wall compatible and complimentary to the building or premises; shrubs, flowers or a groundcover”. The sign details submitted by the Applicant dose not illustrate a base area for the freestanding sign.

“Article VIII § 7.14.b states: each single sign on the premises shall not exceed seventy (70) square feet in sign area.

“Article VIII § 7.9.b states: “a wall or building mounted sign shall in no case exceed ten (10) percent of the area of the wall on which it is displayed or seventy (70) square feet in sign area whichever is less”. The proposed 174 square foot wall mounted sign exceeds the requirements of Code by 104 square feet.

“The Applicant is also proposing a lot line adjustment to create a 0.87 acre tract on which the proposed development would take place. The lot line adjustment would incorporate 0.42 acres, from Tract 1, to Tract A (0.45 acre) creating a 0.87-acre parcel. The lot line adjustment shall be processed administratively prior to Final Development Plan approval.

“The Applicant is also proposing a lot line adjustment to create a 0.87 acre tract on which the proposed development would take place. The lot line adjustment would incorporate 0.42 acres, from Tract 1, to Tract A (0.45 acre) creating a 0.87 acre parcel. The lot line adjustment shall be processed administratively prior to Final Development Plan approval.

“On August 30th, 2012, the Applicant conducted a Community meeting in compliance with Ordinance No. 2008-5, Section 12.8, Seven members of the community attended and none were in opposition of the development.

“Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and has found that the following facts presented support the request for Master Plan and Preliminary Development Plan: the application is comprehensive in establishing the scope of the project; the proposed Preliminary Development Plan substantially conforms to the proposed Master Plan; the Application satisfies the submittal requirements set forth in the Land Development Code.

“The review comments from State Agencies and County staff has established that this Application, for Master Plan and Preliminary Development Plan, is in compliance with State requirements, Ordinance No. 2008-5 , Article III, Section 4.4, Development and Design Standards, Article V, Section 5, Master Plan Procedures and Article 5, Section 7 Development Plan Requirements of the Land Development Code.

“Building and Development Services staff has reviewed the Applicants request for a variance of Article III, § 4.4.3c and Article VIII, §’s 7.3, 7.8 and 7.14 for compliance with pertinent Code requirements and has found that the following facts presented do not support the request: parking lots shall be placed or oriented on a site to the rear or side of buildings (or both); the maximum allowable sign height for a free standing sign located at the front property line is five (5) feet; the maximum allowable wall mounted sign area shall not exceed seventy square feet; a variation or modification of these sections of the Code may be considered more than a minimum easing of the requirements.

Mr. Larrañaga stated staff recommends denial of the Applicant’s request for a variance of Article III, § 4.4.3c to allow the parking lot to be located in front of the proposed building and denial of the variance of Article VIII, §’s 7.3, 7.8 and 7.14 to allow a sign to exceed the height and set back requirements and to allow a wall-mounted sign to exceed 70 square feet in sign area.

If the decision of the CDRC is to recommend approval of the Applicant’s request for Master Plan and Preliminary Development Plan, staff recommends imposition of the following conditions:

1. The Applicant shall comply with all review agency comments and conditions as per Article V, Section 7.1.3.c.

2. Master Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, Section 5.2.5.
3. Detailed lighting plan shall be submitted at time of Final Development Plan as per Article III, Section 4.4.4 h and Table 3.1.
4. Prior to Final Development approval the Applicant shall provide a landscape water budget that will be used to determine the size of cistern required for the development as per Ordinance 2008-4.
5. Drainage calculations for site runoff shall be submitted for review and approval with Final Development Plan as per Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance.

Member Drobnis asked if staff had discussed a compromise in the sign size issues with the applicant. Mr. Larrañaga answered there was discussion in the technical review meeting and comments were sent back to the applicant. Mr. Larrañaga stated the code does not allow compromise by staff.

Member Katz asked if there was a sidewalk in front of the property and was told there was not, so there is no pedestrian traffic.

Chair Gonzales asked if there were any updates from the Environment Department or the State Engineer. Mr. Larrañaga said plans revised by the applicant were sent off to the state agencies but they have not had time to respond. However, those should be available by the time the application goes to the BCC.

Duly sworn, Jeff Kost, architect for the project, said Glenwood Development would be owners of the building and his home will be tied to the project. Family Dollar will be a tenant. He explained that Family Dollar works out the best location carefully. He is excited at being able to be a part of the area's revitalization. He provided photographs of the area. [Exhibit 4] He said the business will be low-impact and will employ five to seven local people.

Mr. Kost said he has notified everyone within 500 feet of the project. Construction won't impact Highway 84-285. The request for parking in front is to demonstrate activity and discourage crime as well as facilitate deliveries.

Regarding the signs, Mr. Kost said he would be willing to compromise.

Member Anaya asked if this was a franchise and the signs were required. Mr. Kost said the signs are a function of corporate branding rather than a franchise. He said he would have to get a lease amendment to reduce the size of the sign. Member Anaya said he agreed with the safety aspect regarding the parking.

Member Katz asked if there was any leeway on the design standards so that the building did not appear to be in New Jersey. Mr. Kost said they would be mirroring some of the eclectic architecture as seen in the photographs. It's a small property.

Member Drobni asked if there was a rendering showing what the sign would look like from the highway and Mr. Kost said he did not.

Stating he looked through the photographs, Chair Gonzales said some are on pueblo land and do not require County approval. He asked for more details on the sign and Mr. Kost indicated they were trying to minimize the impact.

Chair Gonzales asked about the water usage mentioned and Mr. Kost said that calculation was in error and they have redone and resubmitted those numbers. Water usage will be minimal and close to the amount used by the previous owner. He noted the lot line adjustment will increase the size of the property by a small amount.

Mr. Kost said he met with Flavio Gurulé who was the acequia commissioner for 29 years and told him there is no impact to the acequia. He explained that the liquid waste system will be a vault and haul system that won't require a traditional leach field.

Under oath, Representative Jim Trujillo said he is the owner of the property and former owner of the Al's Liquor. He thanked the committee for its work. He said the area needs to be upgraded and beautified. This plan will create jobs and provide a good service as well as gross receipts tax. If this doesn't go forward the building will remain vacant for some time into the future.

James Trujillo, duly sworn, echoed his father's comments, noting they had been approached by gas stations, liquor stores, nightclubs and motorcycle stores, but they wanted to bring something special to the valley, which is why they choose to work with Family Dollar.

Under oath, Flavio Gurulé stated this would be a good thing to have in that location. He is the neighbor to the east and has noticed loitering in the area. He stated as acequia association president for 29 years he knows the rules and regulations regarding the acequia.

Duly sworn, Danny Martinez as a resident of Pojoaque praised the proposal for its economic development potential.

Darien Gonzales, under oath, indicated he studies criminal justice and said he was concerned about safety and security, given there are no cameras planned. He said his father owns the beef jerky store across the street and there are already issues with the vacant building. Parking in the front is good as it shows there is activity.

The public hearing was then closed.

Stating he lived in the community, Member Valdez said he was happy to see more non-pueblo buildings going in. He is involved in construction of other new buildings in the area.

Member Valdez moved to approve the application with County conditions and with revision of the sign dimensions. Member Anaya seconded.

Member Katz asked for a friendly amendment that the building sign be reduced from 144 square feet not to exceed 105 square feet, splitting the difference between the proposed size and the recommended maximum of 70 square feet. The motioner and seconder accepted the condition, as did Mr. Kost.

The motion as amended carried by unanimous [6-0] voice vote.

Mr. Larrañaga verified that the wall-mounted sign cannot exceed 105 square feet and the pole-mounted sign cannot exceed 12 feet, and stated a variance was still required. Ms. Brown confirmed that the approval included both variances.

VII. E. CDRC CASE # Z/S 08-5440 Tierra Bello Subdivision. Joseph Miller, Applicant, Danny Martinez, Agent Requests Master Plan Zoning Approval for a 73-Lot Residential Subdivision on 263.769+ Acres and Preliminary and Final Plat and Development Plan Approval for Phase 1, Which Will Consist of 9 Lots. The Property is Located at the Northeast Intersection of Avenida de Compadres and Spur Ranch Road, South of Avenida Eldorado in Eldorado, within Sections 24 and 25, Township 15 North, Range 9 East, Commission District 5 [Exhibit 5: Staff Memo from County Hydrologist; Exhibit 6: Staff Memo from Public Works]

Ms. Lucero read the caption and gave the following staff report:

“On July 22, 2010, a request was presented to the CDRC by the Applicant for Master Plan Zoning approval for a 73-lot residential subdivision known as Tierra Bello. The decision of the CDRC was to table the request to allow the applicant to address issues regarding affordable housing, water availability and access and traffic.

“The Applicant has since signed an Affordable Housing Agreement with Santa Fe County in which the Applicant has agreed to provide 15% affordable housing in accordance with Ordinance No. 2012-1.

“In regards to water availability, a positive recommendation was issued by the County Hydrologist. The OSE, however has not issued a favorable response. The response given by the OSE was with regard to the point of diversion, which is the same as the previous case heard, Spirit Wind.

“In regards to access and traffic, the NMDOT has issued a positive recommendation. The County Public Works Department – a new memo was just handed out which issues a positive recommendation with conditions. [Exhibit ???]

“The Applicant has modified his request since the last CDRC meeting. The request is still for Master Plan Zoning approval for a 73-lot residential subdivision on 263.769 acres. However, in addition to this, the Applicant is now requesting

Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of nine lots.”

Ms. Lucero stated staff recommended approval of the request for master plan zoning approval for a 73-lot residential subdivision and preliminary and final plat and development plan approval for Phase 1, which will consist of nine lots subject to the following staff conditions:

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Conditions as stated in the memo from the Public Works Department shall be addressed prior to this case being heard by the BCC.
3. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
4. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.

Member Katz said he was confused by the fact staff was recommending preliminary and final approval, while the County Hydrologist seemed to approve only the master plan. Ms. Lucero said the memo handed out was an earlier memo; the latest is in the packet. Her last communication with the OSE indicated they were approving, but due to the short timeframe staff was unable to get anything in writing.

Legal counsel for the project, Ron Van Amberg stated this project has been in the works for ten years. It received final plat approval in 1986 but that expired. It is the second half of the project; the first was Tierra Colinas. The current application reflects work by County staff, the mediator, Robert Rambo and Mr. Miller. Mr. Van Amberg noted he has heard from the neighbors who request a tabling to give them time to go over the new covenants. He added there will be a two-month hiatus before the application goes to the BCC which will allow time for the neighbors to review the covenants and meet with Mr. Miller and Danny Martinez, his agent.

Mr. Van Amberg pointed out Tierra Bello will not have mobile homes, which are regulated by HUD but rather modular homes which are under the same jurisdiction as stick-built homes. Modular adds to the affordability.

He said initially 60 percent of Los Compadres Road will be basecoursed. Ultimately it will be paved.

Contrary to rumors, the water company does have the capacity and water rights to serve the project. Mr. Van Amberg referred to Exhibit 7, *Water Notes*, issued by the Eldorado Area Water & Sanitation District which established its capacity which is great enough to accommodate more development. There is an adequate cushion to serve current and future customers. He mentioned Well #18 has been approved by the OSE as a

point of diversion and will be functioning soon now that the easement with PNM has been settled. The well cost around \$1 million and produces 500 to 700 gallons per minute and is in a separate aquifer from the Galisteo Basin. He added consumption has decreased over the years due to increased conservation. "The impact of the Miller subdivisions will effectively be negligible. Mr. Miller has given five wells and the associated water rights to the EAWSD.

Turning to Exhibit 8, Mr. Van Amberg explained the agreement with the County regarding water supplies and infrastructure, which further assures adequate water resources as backup. Exhibit 9 refers to a partial license signed by the State Engineer. Mr. Van Amberg reviewed the history of water pumping in Eldorado.

Member Katz referred to recent developments causing the BDD to curtail diversion due to drought. "Rights are very nice, but what happens if it doesn't rain?" Mr. Van Amberg stated that the bulk of the water in that particular aquifer is not dependent on rain or runoff.

Previously sworn, Danny Martinez reiterated this has been a long process and they are committed to comply with the Land Use Code. He thanked staff for their continuing help and expressed his commitment to work with the neighbors.

Noting this was tabled two years ago Chair Gonzales asked what has changed in that time. Mr. Martinez stated the number of lots and phases have not changed. In deference to the neighbors they have eliminated manufactured homes – single-wide, double-wide and triple-wide. However, modular homes remain. Average lot size is 3+ acres, which is greater than the average in Eldorado, although neighboring developments are mandated to have larger lots. An affordable housing agreement has been arrived at that will allow a good portion of the 13 required affordable lots to be transferred to the future Cimarron Village Subdivision where wastewater treatment will be available. This subdivision will have four units in Tier 4.

Mr. Martinez stated water has been established and hydrants are in place. Natural gas has been extended to Tierra Colinas at no cost.

Chair Gonzales asked about farm animals and Mr. Martinez said they will not be allowed. Chickens are prohibited and pets limited.

Member Anaya asked what effect that restriction would have on 4-H participants. Mr. Martinez said the community does not seem to want to have farm animals and they are acquiescing to that preference. Citing the CC&Rs, Member Drobnis said household pets include birds; since chickens are birds it appears they are not excluded. Mr. Martinez said fine-tuning remains on the covenants.

County Hydrologist Torres reviewed the data she analyzed regarding the well capacity vis-à-vis demand. Her analysis did not include the Lamy wells which are shallow and subject to drought conditions. She found there was sufficient capacity even during high-pumping months.

Member Anaya asked how many monitoring wells were present. Ms. Torres stated she believed there were three, however, they are not on the USGS database. She explained there are two systems – the Lamy well and the central wellfield, which are independent from one another. She explained that as backup, a water line is being planned to bring Buckman water to the area. Eldorado has agreed to be a customer for up to 50 acre-feet a year as a supplemental supply.

Duly sworn, Ann Bitter, past president of the Tierra Colinas Homeowners Association, said she has been convening meetings for two or three years to discuss incoming developments. In that time the County has placed great emphasis on communication. She said the community has not had time to review the latest material due to the holidays. She first saw the amended covenants was on January 9th which did not afford the time for a meeting. Additionally, in that time the County’s computer system was down. She asked that the case be tabled until the February meeting. She said they would be very happy to meet with Mr. Rambo as mediator since the last meeting with the developers did not go well.

Ms. Bitter recognized compromises made, stating they had no problem with modular homes as long as they are stuccoed. They appreciate that horses are excluded and that design standards are in place. They are also pleased with the affordable housing agreement. Concerns remaining to be addressed concern roads and traffic. Addition time will allow for greater consensus.

Noting that there were people from the Spirit Wind hearing that felt they were not allowed a chance to speak, Member Katz said that rather than go through the public hearing he would prefer to table and re-open the public hearing in February, and so moved. Member Martin seconded and the motion carried by 4-2 voice vote with Members Katz, Martin, Drobni and Gonzales voting in favor and Members Anaya and Valdez voting against.

VIII. PETITIONS FROM THE FLOOR

None were offered.

IX. COMMUNICATIONS FROM THE COMMITTEE

Member Martin asked that her vote on the Spirit Wind case be changed from aye to nay.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

XI. COMMUNICATIONS FROM STAFF

Ms. Lucero said terms are expiring for Members Anaya, Drobnis, Katz and Valdez. She distributed certificates of appreciation to those members, noting if they wish to continue to serve they need to submit a letter and résumé by January 25th.

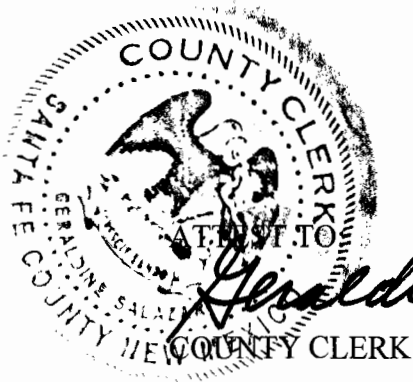
The next CDRC meeting: February 21, 2013 at 4 p.m.

XII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 7:30 p.m.

Approved by:

Susan C. Martin for
J.J. Gonzales, Chair 2/21/13
CDRC



Geraldine Salazar 3/5/2013
COUNTY CLERK

Before me, this ____ day of _____, 2013.

My Commission Expires: _____

Notary Public

Submitted by:
Debbie Doyle
Debbie Doyle, Wordswork



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
I Hereby Certify That This Instrument Was Filed for
Record On The 5TH Day Of March, 2013 at 04:29:48 PM
And Was Duly Recorded as Instrument # 1698378
Of The Records Of Santa Fe County
Witness My Hand And Seal Of Office
Marcella Salazar Geraldine Salazar
Deputy County Clerk, Santa Fe, NM

CDRC MINUTES
PAGES: 113

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Comm

Comm

Katherine Miller
County Manager



April 9, 2012

TO: Vicki Lucero, Development Review Team Leader
FROM: Karen Torres, County Hydrologist
THRU: Rich Silva, Utilities Department
Patricio Guerrerortiz, Utilities Director

RE: CDRC Case # Z/S 08-5430: Sprit Wind West Subdivision Master Plan and Preliminary and Final Approval for Phase I – T15N R10E Projected Section 5

The subject development plan was reviewed for technical accuracy and compliance with the SFC Land Development Code. Staff review found Eldorado Area Water and Sanitation District has sufficient water rights and well capacity to meet the existing and future demands of the water system and the additional water use proposed by this application. Additionally staff concludes there is sufficient information submitted for Master Plan and Preliminary Development approval but request submission of additional information, as outlined below, for review prior to final approval.

- Final plat note stating the drilling or use of a well is restricted.
- Address attached red-line comments on domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E.
- Submission of liquid waste disposal documentation package for individual liquid water disposal systems as required by Article VII Section 2 (as amended by Ordinance 1999-1)
- Submission of Water Restrictive Covenants for Review prior to final plat approval

Nature of Project:

The applicant proposes a master plan to create 39 lots ranging in size from 2.89 to 3.47 acres for single family residences. The subject property is located east of New Mexico State Road 285 in the vicinity of the Village of Lamy within projected Section 5 of Township 15 North, Range 10 East N.M.P.M, in the Bishop John Lamy Land Grant. Water supply for this development will be provided by the Eldorado Area Water and Sanitation District with individual septic tanks for liquid waste disposal. Additionally the applicant seeks preliminary and final approval for phase I of this development consisting of only 9 residential lots.

SFC Land Development Code Requirements for Water and Wastewater:

To address requirements of the SFC Land Development Code the pertinent sections of the Code are written out and are addressed individually as to compliance. Master Plan requirements and

CLERK RECORDED 03/05/2013

will include preliminary and final plat procedures for Phase I. This review is limited to SFC Land Development Code requirements for water and wastewater.

Master Plan Requirements for Water and Wastewater:

Article V, Section 5.2.2 g, Master Plan Procedures, as amended by Ordinance 2005-2, requires a master plan report to include the following:

1. A preliminary water supply plan and liquid waste disposal plan which identifies the source of water, water budget by phase and water conservation plan.
2. Submission of a water supply plan for the first sustainable phase of development, as required by Article VII, Section 6 of the Code.

Liquid Waste Disposal Plan

The development report submitted by the applicant states the proposed lots will use individual septic tanks.

Article VII, Section 6 - Water Supply Plan

Article VII, Section 6.2 entitled General Requirements and Submittals for a Water Supply Plan sets forth requirements based on the type and scale of the development. Table 7.4, entitled Required Code Sections for Water Supply, states any development which includes construction or expansion of a community water system, which describes the subject development, is required to submit a water supply plan which consists of submittals compliant with the following code requirements

1. *Article VII, Section 6.3 Community Water Systems*
2. *Article VII, Section 6.4 entitled "Water Availability Assessments"*
3. *Article VII, Section 6.5 entitled "Water Quality"*
4. *Article VII, Section 6.6 entitled "Water Conservation"*
5. *Article VII, Section 6.7 entitled "Fire Protection"*

Each of these code requirements are addresses separately as to compliance for phase I of the subject development. 6.3, 6.4, 6.5, 6.6, 6.7 of the Santa Fe County Land Development Code are required to submit information

Article VII, Section 6.3: Water Supply Plan - Community Water Systems

This article states community water systems shall be required for subdivisions according to the number and size of lots as indicated in Article V Section 9.3, Table 5.1. From Table 5.1 developments that propose between 25 - 99 lots between the size of 2.5 and 10.0 acres is required to have a community water system serve the project. The Spirit Wind Development is required to either create or connect to a community water system. The code has specific requirements for submittals and review of community systems as follows:

The applicant shall submit a water supply plan which demonstrates that the [water] system will comply with the requirements of Section 6.3.1 of Article VII. The water supply plan shall be prepared by or under the supervision of a professional engineer and shall include the following:

- a) *Information showing the volume and peak rate of production of water required for each month to supply each use at full use of the development*

The last review of water use for EAWSD included data from 2006 to 2008 and is revised in this review to include the years 2009 – 2011. The goal of this analysis is to understand the average monthly volume of water as a percentage of the annual use for the current demand and apply that percentage to future water use. The highest monthly water use occurred in June with an average of 63 acre-feet. Using the monthly water use data, a monthly peaking factor was derived.

The projected water demand for future near term projects, to be served by EAWSA, is summarized in a 2007 Preliminary Engineering Report by Daniel B. Stephens & Associates. A total of 92.75 acre-feet of water is necessary for planned residential and commercial development which includes the Spirit Wind Development. The annual water budget for the entire Spirit Wind development (9.5 acre-feet) and the other future developments (83.25 acre-feet) was divided by 12 to get a monthly average water use. The monthly peaking factor was then applied and is summarized in the table below. It is estimated the Spirit Wind development and future projects will increase the demand for the month of June by a total of 10.7 acre-feet, where Spirit Wind accounts for 1.1 acre-feet on this demand.

Table 1: Monthly Water Demand for Current and Future Use

Monthly Water Use (acre-feet)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2006	40	39	40	52	61	62	49	42	40	40	35	35	534 af
2007	41	35	37	37	46	60	61	66	61	52	45	35	574 af
2008	38	37	39	44	67	75	55	53	52	40	35	33	568 af
2009	34	33	37	39	58	55	63	59	45	40	34	33	528 af
2010	33	22	31	37	56	62	53	55	54	45	34	34	516 af
2011	35	35	37	45	58	65	63	55	46	41	33	32	544 af
Average	37	33	37	42	58	63	57	55	50	43	36	34	544 af
Monthly Peaking Factor	0.81	0.71	0.80	0.89	1.25	1.39	1.29	1.26	1.13	0.96	0.79	0.73	
Future Projects (83.25 acre-feet)	5.6	5.1	5.6	6.5	8.8	9.6	8.7	8.4	7.6	6.6	5.5	5.1	
Demand – Spirit Wind (9.5 acre-feet)	0.6	0.6	0.6	0.7	1.0	1.1	1.0	1.0	0.9	0.7	0.6	0.6	9.5 af
Total Current and Future Demand (637 acre-feet)	43	39	43	49	67	74	67	64	58	50	42	39	637 af

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 CDRC CASE # Z/S 08-5430
 03/26/2013

- b) *Plans and specifications for production or diversion, storage and distribution facilities and a time schedule for their completion, prepared by or under the supervision of a registered professional engineer.*

From the submittal it appears only distribution lines are necessary to serve the Spirit Wind Development. A domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E., was submitted by the applicant for staff and NMED to review. This plan is sufficient to meet this code requirement but final plan should incorporate all review comments from NMED and EASWSD.

Any additional infrastructure necessary for this development will be designed and constructed under the terms of the Development Agreement- Spirit Wind West, dated October 17th, 2008, between EAWSD and the applicant.

- c) *A legal description of the location of all construction easements and right-of-way necessary for the installation of the water supply system.*

A domestic water distribution master plan, stamped January 30th, 2012 by Gorge Gonzalez P.E., for Phase I was submitted by the applicant for staff and NMED to review. This plan shows utility easements and is sufficient to meet this code requirement. Final plan should incorporate all easements required by EASWSD and all standards for public water facilities.

- d) *Well plans indicating casing diameter, total depth, screened interval and proposed pump setting.*

EAWSD provided multiple reports on the wells that serve the central well field and the Galisteo wells which document well construction and production. The following table is a summary of well information:

EAWSD Well No.	OSE File No.	Total depth	Casing Diameter	Screened interval (Feet-BGL)	Pump setting (Feet- BGL)
1	RG 18528	700	10-3/4"	350-650	630
2	RG 18529	250	8-5/8"	120-131 160-209	280
3	RG 18543	320	10-3/4"	114-320	214
4	RG 18550	365	10-3/4"	75-360	167
5	RG 18515	192	6"	UNK	175
6	RG 18571	280	8-5/8"	220-265	260
7	RG 18595	280	8-5/8"	180-212 234-255	268
8	RG 18531	312	8-5/8"	165-215 268-275	190

EAWS Well No.	OSE File No. (Continued from previous page)	Total depth	Casing Diameter	Screened interval (Feet- BGL)	Pump setting (Feet- BGL)
9	RG 18556	134	12-3/4"	50-90 100-120	100
10	RG 18524	65	6"	unk	
11	RG 18523	unk	6"	UNK	
12	RG 18517	197	6"	UNK	80
13	RG-18529-S	407	6-5/8"	160-200 220-290	310
14	(RG -18528, RG-18543 & RG-18550)-S	385	8-5/8"	235-315 345-385	315
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	407	8-5/8"	289-400	280
17	RG-88450	675	6 5/8 "od	396-457; 497-637	unk
18	License No. RG-18529 & RG-18556	713	8.625	420 - 700	unk

e) An agreement providing for:

- i. The construction and operation of the water supply system as shown in the plat documents and plans
- ii. Collateral, in the form of a performance bond or other means, adequately assure the complete construction and operation of the system in accordance with design and time specifications
- iii. Certification of the operator of the system
- iv. Involvement as prescribed in the plat documents of a Homeowner's Association, Mutual Domestic Association, or non-profit corporation for the purpose of operation and maintenance of the system.

The development will be served by the expansion of an existing water system and the future homeowners will not have the responsibility of operating the water system. Development Agreement between the applicant and EAWS, dated October 17th 2008, assures the construction and operation of the extension of the water system serving this development. Therefore, the code requirement for *Section 6.3.1 of Article VII (e)*, relating to the operation of EAWS, is met.

f) *If the developer is within a declared basin, the applicant shall obtain a valid water right permit issued by the State Engineer pursuant to Section 6.2.2 of this section.*

Spirit Wind will be served by EAWS so it is not the applicant but rather the water system that is required to obtain a valid water right permit. A review of Office of the State Engineer records demonstrates EAWS has valid water right permits sufficient to serve this development. Any requirement of additional water rights is governed by the development agreement between the applicant and EAWS. Further discussion of water rights is later in this memo.

Article VII, Section 6.3: Required Submittals - Community Water Systems

Requirements for Community Water Systems: *Article VII, Section 6.3.1*

- a) *When a community water system is required, the developer shall provide water from existing or proposed water supply systems for domestic use, fire protection, and any other use that the developer proposes.*

Letter from Eldorado Area Water and Sanitation District dated December 29, 2011 states they commit to provide up to 9.5 acre-feet of water for water service (inclusive of fire protection) to the entire Spirit Wind Development.

- b) *The developer shall provide for the completion of the proposed water supply systems, in accordance with applicable minimum design standards of the New Mexico Environment Department and the Construction Industries Division.*

By the water development agreement between EAWSD and the applicant the completion of the proposed waterline extension is provided for. A domestic water distribution master plan, stamped January 30th, 2012 by Gorge Gonzalez P.E., for phase 1 was submitted by the applicant for staff and NMED to review. This plan is sufficient for master and preliminary plan purposes but final plan should incorporate all review comments from NMED.

- c) *The developer shall meet fire flow requirements set forth in Article VII Section 6.7.*

Section 6.7.6, as amended by Ordinance 1998-10, states residential subdivisions shall have fire hydrants which are designed to flow at least 500 gallons per minute with 20 psi for a two hour minimum. On September 12, 2007 a Technical Memorandum was issued by IDModeling address these code requirements and did not identify any deficiencies in storage or fire flows in Pressure Zone PZ-3R where the proposed development is located.

- d) *The developer shall provide sufficient potable water for full development of all properties within the proposed development*

Addressed in commitment letter from EAWSD.

- e) *If the development is in a Traditional Community District, the community water system shall be designed to minimize the use of local water resources. The applicant shall obtain water rights as the State Engineer requires. The community water system shall be consistent with the Local Land Use and Utility Plan, if any.*

The subject development is not within a Traditional Community District, this requirement is not applicable.

- f) *All distribution mains shall be a minimum of six inches in diameter*

A domestic water distribution master plan for Phase I, stamped January 30th, 2012 by Gorge Gonzalez P.E., shows 8 inch distribution lines for the subject development. Redline comments have been made on this plan. It is recommended the applicant address all red-line comments prior to final approval.

- g) *It shall be noted on the final plat and plans and in the covenants and disclosure statement that the drilling or use of individual or shared wells is strictly prohibited.*

The restriction of drilling or using a well in not noted on the final plat. Minor edits were suggested to the covenants and disclosure and were submitted to the case manager in red line format.

- h) *The developer shall meet all applicable requirements of the Public Utility Act Articles 1 through 6 and 8 through 13 of Chapter 62 NMSA 1978.*

EAWSD does not fall under the jurisdiction of the PRC with the exception of rate adjustments so this part of the code does not appear to apply to this development.

Article VII, Section 6.4 entitled "Water Availability Assessments"

For developments where the source of supply will be an existing community or municipal supply system the applicant shall submit a water availability assessment in accordance with Section 6.6.4. This section requires a willingness to serve letter from the water system, proof of existing water rights, quantity of water presently produced and plans for the existing water system as outlined below

6.4 Water Availability Assessments – Community Water Systems

Article VII Section 6.4.4 entitled community water systems for which existing utility companies are proposed as the source of water supply, the applicant shall submit a water availability assessment which includes the following:

- i. *Name of the utility proposed as the source of supply and letter of intent from the utility that they are ready, willing and able to provide the maximum annual water requirements for the development including fire protection for at least 100 years.*

Eldorado Area Water and Sanitation District (EAWSD) is the source of supply for this development. Letter from EAWSD dated October 20, 2008 states the district is ready, willing and able to provided 9.5 acre-feet per year of water to serve the Spirit Wind Development. Though this letter did not specifically state the district can provide fire protection for at least 100 years it is presumed fire protection is provided as part of the residential water service.

- ii. Documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date and proof of sufficient water rights to meet both existing commitments and the requirements of the development for at least 100 years.

1. Annual Water Use and Future Water Supply Commitments

This item was addressed in the review of Section 6.3.1 of this Article VII on page 3 but is repeated here for ease of reading. The last review of water use for EAWSD included data from 2006 to 2008 and is updated in this review to include the years 2009 – 2011. The goal of this analysis is to understand the average monthly volume of water as a percentage of the annual use for the current demand and apply that percentage to future water use. The average annual water use is 544 acre-feet per year with highest monthly water use occurring in June, with an average of 63 acre-feet. The monthly data was evaluated and a monthly peaking factor was derived.

The projected water demand for future near term projects, to be served by EAWSA, is summarized in a 2007 Preliminary Engineering Report by Daniel B. Stephens & Associates. A total of 92.75 acre-feet of water is necessary for planned residential and commercial development which includes the Spirit Wind Development. The annual water budget for the entire Spirit Wind development (9.5 acre-feet) and the other future developments (83.25 acre-feet) was divided by 12 to get a monthly average water use. The monthly peaking factor was then applied and is summarized in the table below. It is estimated the Spirit Wind development and future projects will increase the demand for the month of June by a total of 10.7 acre-feet, where Spirit Wind accounts for 1.1 acre-feet on this demand.

Table 1: Monthly Water Demand for Current and Future Use

Monthly Water Use (acre-feet)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2006	40	39	40	52	61	62	49	42	40	40	35	35	534 af
2007	41	35	37	37	46	60	61	66	61	52	45	35	574 af
2008	38	37	39	44	67	75	55	53	52	40	35	33	568 af
2009	34	33	37	39	58	55	63	59	45	40	34	33	528 af
2010	33	22	31	37	56	62	53	55	54	45	34	34	516 af
2011	35	35	37	45	58	65	63	55	46	41	33	32	544 af
Average	37	33	37	42	58	63	57	55	50	43	36	34	544 af
Monthly Peaking Factor	0.81	0.71	0.80	0.89	1.25	1.39	1.29	1.26	1.13	0.96	0.79	0.73	
Future Projects (83.25 acre-feet)	5.6	5.1	5.6	6.5	8.8	9.6	8.7	8.4	7.6	6.6	5.5	5.1	83.25
Demand – Spirit Wind (9.5 acre-feet)	0.6	0.6	0.6	0.7	1.0	1.1	1.0	1.0	0.9	0.7	0.6	0.6	9.5 af
Total Current and Future Demand (637 acre-feet)	43	39	43	49	67	74	67	64	58	50	42	39	637 af

2. Proof of Sufficient Water Rights

The following is a brief summary of the decreed, permitted and licensed water rights for EAWSD wells.

- On March 3, 1971 Eldorado at Santa Fe filed 84 Declarations of Ownership of Groundwater Right for the original wells which served the utility.
- On December 20, 1972 under Cause No. 45612 the nature and limitations of the water rights associated with the original declared wells were decreed. The amount of water that may be diverted from each well was established under various permits issued by the OSE as follows:

EAWSD Well No.	OSE Permit No.	2007 Well Use (afa)	2008 Well Use (afa)	2009 Well Use (afa)	2010 Well Use (afa)	2011 Well Use (afa)	Maximum Diversion of Water as Decreed and Permitted (afa)	
1	RG 18528	25.08	0	0	0	0	151.3	
2	RG 18529	33.39	67.05	74.8	4.8	37.9	305.9	
3	RG 18543	0	0	0	0	0	82.1	
4	RG 18550	8.08	6.7	1.6	0	0	82.1	
5	RG 18515	0	0	0	0	0	24.0	
6	RG 18571	6.47	15.26	6.5	2.9	5.2	45.7	
7	RG 18595	.76	4.30	13.4	10.6	17.5	82.0	
8	RG 18531	8.09	14.99	16.24	14.2	23.5	46.9	
9	RG 18556	163.24	92.06	129	124	2.3	195.4	
10	RG 18524	2.21	5.15	4.8	5.1	0	4.8	
12	RG 18517	14.90	13.31	4.4	0	0	17.4	
13	RG-18529-S	.03	0.62	0	0	0	Supplemental to Well 2.	
14	(RG -18528, RG-18543 & RG-18550)-S	110.57	91.44	93	85.5	109	Supplemental to Wells 1, 3 & 4. Diversion shall not exceed 111.7 acre-feet	
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	201.58	240.38	185	186.6	198	Supplemental to Wells 1, 2, 3, 4, 5, 6, 7, & 8. Diversion shall not exceed the sum of the 780.7 acre-feet	
17	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531 and RG-18517)-S		16.97	.19	43.8	106	Not to exceed 111.07 acre-feet per annum.	
18	Permit Pending					36.7	Permit Pending	
Total Annual Water Use (af)		574	568	528	516	544		
Total Licensed Water Right (af)		783.43 acre-feet per year						

- On June 4th 2010 Partial License Nos. RG-18529 and RG-18556 was issued by the State Engineer. Partial License RG-18529 allows EAWSD to divert 583.23 acre-feet per year from the central well field and assigns a priority date ranging from 1968 to 1970. Partial License No. RG-18556 allows the diversion of 200.2 acre-feet per year from the Galisteo Creek Wells. (Well Nos. 9 and 10) and assigns a priority date ranging from 1968 to 1970. The total amount of water rights recognized under these licenses is 783.43 acre-feet per year.
- Partial License Nos. RG-18529 and RG-18556 allow for the application of water to beneficial use of 254.37 acre-feet per year above the licensed 783.43 acre-feet. EAWSD was given 20 years to perfect these water rights and submit Proof of Beneficial Use.

Based on the amount of water rights recognized under Partial License Nos. RG-18529 and RG-18556 and projected future demand of 637 acre-feet per year EAWSD has more than enough water rights to meet current and future water demands of the system; as well as the Spirit Wind Development.

iii. For New Mexico Public Utilities Commission (PUC) certified utilities, a copy of the most recent annual report submitted to the PUC.

EAWSD is not required to report to the PUC (now PRC) so this code requirement is not applicable

iv. Plans for the existing water system to which the proposed system will connect into. The plans shall show diversion point locations and water storage and distribution system. The size or capacity of the water system components should also be indicated on the plans.

The May 9, 2007 NMED, *Sanitary Survey Report Eldorado Water & Sanitation District WSS# 37326* states - The Eldorado Water and Sanitation District water system serves a population of approximately 7500, through 2904 service connections and approximately 70 commercial connections. The water system consists of fourteen wells (now fifteen), eight storage tanks, six treatment plants, three booster stations, and distribution. Notes: Well number 11 is no longer part of the system. Wells 3, 5, & 10 are still physically connected but not being used. Well 13 is still connected but no longer used. Meter reading submitted by EAWSD for 2007 and 2008 support NMED's finding that, with the exception of well 10, wells 3, 5 and 11 are not used to supply water to the system.

To estimate well capacity of the water system the design production of the wells currently on-line were obtained from EAWSD and reviewed. Since it is unreasonable to presume well are pumped 100% of the time the well production was reduced by 60% to reflect reasonable well operation. It should be noted that wells 9 and 10 are shallow wells located near Lamy and within the streambed of Galisteo Creek. These wells are sensitive to drought and on several occasions have had a significant reduction in yield. For this reason, wells 9 and 10 are not a reliable supply

of water every year and were not considered in this capacity analysis. Additionally Well 18 is excluded as it is not permitted for use by the State Engineer. A summary of EAWSD well production is as follows:

EAWS Well No.	OSE File No.	Design Capacity 100% (GPM)	Well Capacity 60% (GPM)	Well Capacity (acre-feet per year)
1	RG 18528	60	36	58
2	RG 18529	130	78	126
3	RG 18543	Disconnected	-	-
4	RG 18550	25	15	24
5	RG 18515	Disconnected	-	-
6	RG 18571	50	30	48
7	RG 18595	25	15	24
8	RG 18531	50	30	48
9	RG 18556	180	108	Lamy Well
10	RG 18524	UNK	-	Lamy Well
11	RG 18523	Disconnected	-	-
12	RG 18517	20	12	19
13	RG-18529-S	200	120	194
14	(RG -18528, RG-18543 & RG-18550)-S	250	150	242
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	350	210	339
17	RG-88450	115	69	111
18	License No. RG-18529 & RG-18556	300 (not permitted)	-	-
Total Well Production at 60%			873 gpm	1,233 acre-feet

The amount of water that can be reasonably produced from the EAWSD central well field is estimated at 873 gallons per minute for wells currently on-line and permitted. Based on the highest water use month the estimated daily demand for current and future projects is 558 gpm but this does not account for peak daily use. Daily peaking issues are addressed through the use

of storage. Based on this estimate there appears to be sufficient production from the EAWSD wells to meet current, future and the 9.5 acre-feet of demand proposed for this project.

- v. *Any other information, including any or all of the requirements of Sections 6.4.2 and 6.4.3 required by the Board or the County Development Review Committee to make a determination that the utility has the capability to meet the water requirements of the development.*

Additional information on this water system, as required by sections 6.4.2 and 6.4.3, is not necessary at this time as the water system has demonstrated sufficient capacity and water rights to serve the proposed development.

Article VII, Section 6.5 -Water Quality

No water quality information was submitted to the County to review but as EAWSD is a community water system they are required by NMED to meet all drinking water standards set forth by the Environmental Protection Agency. A review of the latest Sanitary Survey and NMED Drinking Water Bureau website did not indicate any water quality issues.

Article VII, Section 6.6- Water Conservation

Water Budget

The water use budget indicates a total annual water use of 9.5 acre-feet. The method used to calculate the per household water use is acceptable and meets the requirements of the Land Development Code.

Water Restrictive Covenants

The report states that the lots will comply with the Santa Fe County water conservation ordinances. These restrictions should be reflected in the Water Restrictive Covenants for the development. Water conservation covenants reflecting the water conservation practices within LDC Article VII Section 6.6.2, Santa Fe County Ordinances 2002-13, 2004-7, 2003-6, 2006-3, 2006-8 should be submitted. Additionally the restriction of drilling or using a well is not noted on the final plat.

Article VII, Section 6.7- Fire Protection

Article VII, Section 6.7.6, as amended by Ordinance 1998-10, states residential subdivisions shall have fire hydrants which are designed to flow at least 500 gallons per minute with 20 psi for a two hour minimum. On September 12, 2007 a Technical Memorandum was issued by IDModeling address these code requirements and did not identify any deficiencies in storage or fire flows in Pressure Zone PZ-3R where the proposed development is located.

Article VII, Section 2 - Liquid Waste Disposal Requirements

Article V, Section 5.2.2. g, 8 entitled Master Plan Procedures requires a preliminary liquid waste disposal plan for the first sustainable phase of development, as required by Article VII, Section 2 of the Code. It should be noted wastewater requirements were amended by Ordinance 1999-1

The development report submitted by the applicant states the proposed lots will use individual septic systems which will incorporate gray water systems for irrigation. The original language in the report stated gray water will serve to meet individual irrigation but such use was not indicated on the water budget. An e-mail from the applicant's agent received March 29th, 2012, has clarified that such systems will be installed at the discretion of the homeowner and cannot be used to reduce the water budget for each lot. Given this the developer is not required to submit engineering plans for a grey water system.

7.1 of Article VII Section 2 (as amended by Ordinance 1999-1) requires submission of liquid waste disposal documentation package for individual liquid water disposal systems. The documentation submitted by the applicant does not meet this code requirement. It is recommended county staff work with the applicant to outline necessary submittals to meet code requirements. This can be handled administratively as a condition prior to final plat approval.

Conclusions

Staff review found Eldorado Area Water and Sanitation District has sufficient water rights and well capacity to meet the existing and future demands of the water system and the additional water use proposed by this application. Additionally staff concludes there is sufficient information submitted for Master Plan and Preliminary Development approval but request submission of additional information, as outlined below, for review prior to final approval.

- Final plat note stating the drilling or use of a well is restricted.
- Address red-line comments on domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E.
- Submission of liquid waste disposal documentation package for individual liquid water disposal systems as required by Article VII Section 2 (as amended by Ordinance 1999-1)
- Submission of Water Restrictive Covenants for Review prior to final plat approval

If you have any questions, please feel free to call me at 992-9871 or email at ktorres@co.santa-fe.nm.us.

For case file 08-5430

Sat, Jan 12, 2013

Dear County Development Review Committee,

Upon checking on the latest status of the archaeology for Mr. Miller's proposed Spirit Wind Ranch West development I see in the county file that, as of January 2013, all 3 archaeological sites have been relocated and plotted correctly on the maps using GIS. The largest site is a stone tool material gathering location (a sort of quarry); the other two sites are a firepit (that can yield dates of its use through its charcoal), and a small camp with many types of artifacts (hunting tools, plant processing tools, pottery sherds).

All 3 archaeological sites are still considered significant under criterion d of 36 CFR 60.4 (meaning they date to the pre-Columbian period). In addition, the largest site, LA103860, is recognized as being a unique type of site so far found in the Galisteo Basin. It being shallow, in fact, highlights the need for its protection.

Last spring Mr. Miller had his archaeologist conduct TEST excavations at LA103861 to gather more information about the site. The archaeologist found the site is relatively shallow but with hundreds of artifacts. Despite the very high number of artifacts, the archaeologist recommended the site be cleared for the proposed development. In a letter from SHPO to the County, dated July 18, 2012, SHPO disagreed with that recommendation and reiterated LA103861 needs to remain in its protective status. In another letter from SHPO to the County, dated July 20, 2012, SHPO approved Phase I but no further work can be done on the larger development (i.e. Phase II) until a data treatment plan for the sites is submitted to SHPO and then approved. Also in the files I note various county officials are well aware the archaeology sites' need to be in protective easements until all formalities are concluded, e.g. the sites (all 3 of them) are in protective easements and those easements are depicted on the latest plats; no easements can be removed until the sites are excavated and the final report for those excavations are approved by SHPO (Sept 12, 2012 memo from Public Works to Vicki Lucero; Oct 18, 2012 County Memorandum from Vicki Lucero to County Development Review Committee).

But I am concerned Mr. Miller and his development team do not realize that while LA103861 has undergone TEST excavations, SHPO still considers the site significant and still must remain in its protective archaeological easement.

Given LA103861 is in the proposed roadway that links the 2 areas of Phase I, two options for the site exist:

Preservation--fence off that site so it is not driven upon or accidentally bulldozed during any of the development phases, including Phase 1.

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Data Treatment—the remaining portions of the site are fully excavated gathering all information possible. Full excavation involves the writing of a data treatment plan before excavating the site; the plan is submitted to SHPO for their approval. As soon as the excavation is complete, a preliminary report must be submitted to SHPO. If SHPO agrees the treatment plan was followed correctly, full analysis of all artifacts and samples must be conducted and a final report written and submitted to SHPO for final approval.

To reiterate, none of the 3 archaeological sites have been “cleared” for development. While Mr. Miller’s archaeologist recommended LA103861 be cleared based on it being shallow, SHPO does not agree. LA103861, as well as the other two sites, need to remain in protective easements. If the development is to go through, I would like to see proper consideration of the area archaeology.

Thank you,

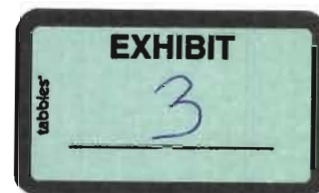
A handwritten signature in cursive script that reads "Lonyta Viklund-Galloway".

Lonyta Viklund-Galloway

54 Cerro Blanco Rd (in Spirit Wind Ranch)

(505) 466-3504

SOMMER KARNES & ASSOCIATES LLP



Mailing Address

Post Office Box 2476
Santa Fe, New Mexico 87504-2476

Street Address

200 West Marcy Street, Suite 133
Santa Fe, New Mexico 87501

Telephone: (505) 989.3800

Facsimile: (505) 982.1745

January 16, 2013

Santa Fe Development Review Committee
c/o Vicki Lucero, Case Planner
102 Grant Avenue
Santa Fe NM 87504

Re: Spirit Wind West Subdivision
CDRC Case # Z/S 08-5430

Dear Vicki:

On behalf of residents living within the Spirit Wind Ranch Subdivision, adjacent to the proposed project, the purpose of this letter is to advise staff and the CDRC of fatal defects that preclude approval of the application. The water utility proposed by the applicant has not satisfied the requirements of the SFC Land Development Code (the "Code") regarding documentation of a sustainable long term water supply for the project.

The applicant proposes that potable water for the project be supplied by the El Dorado Area Water and Sanitation District (EAWSD), a publicly owned water utility. The EAWSD has not provided the long-term water supply documentation required by the Code and based on its own published reports, cannot do so. Therefore, the application cannot legally be approved and we respectfully request that you recommend that the application be denied.

A. The EAWSD Letter of Intent Does Not Meet the Code Requirements

The Code requires that a non-municipal or County-owned utility provide a letter of intent that "they are ready, willing, and able to provide the maximum annual water requirements for the development including fire protection for at least 100 years." (Code Art. VII, §6.4.4.b.i)

The applicant submitted a letter from the EAWSD dated December 29, 2011 stating the "EAWSD is ready, willing and able to provide water service to the entire Project or phases of the Project in an amount not to exceed none and one half (9.5) acre feet per year ("afy") of water." (Exhibit A) The letter does not satisfy the Code requirement because it does not state that that the EAWSD is ready or able to provide the maximum

Karl H. Sommer, Attorney at Law
khs@sommer-assoc.com
Joseph M. Karnes, Attorney at Law
jmk@sommer-assoc.com
Mychal L. Delgado, Certified Paralegal
mld@sommer-assoc.com
James R. Hawley, Attorney at Law
Of Counsel
Licensed in New Mexico and California
jrh@sommer-assoc.com

FILED
CLERK RECORDED 03/05/2013

Sommer, Karnes & Associates, LLP

CDRC

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annual water requirements for the development including fire protection for at least 100 years. Therefore, the application cannot be approved.

County staff reviewed the application for technical accuracy and compliance with the Code. (Report from Karen Torres dated April 9, 2012). The Report referenced the EAWSD letter and concluded that “though the letter did not specifically state that the district can provide fire protection for at least 100 years it is presumed fire protection is provided as part of residential water service.”

The staff review incorrectly cited the Code requirement. The Code requires not only that the utility state its ability to provide fire protection for at least 100 years, but *also* that it state the ability to provide the maximum annual water requirements for the development for at least 100 years. As addressed above, the EAWSD did not address either provision of the maximum annual water requirements or fire protection for at least 100 years.

There is no substantial evidence in the record to support a determination that the requirements of §6.4.4.b.i have been satisfied and as a result, the application must be denied.

B. The EAWSD is Not Ready or Able to Meet the 100 Year Water Supply Requirement

The reason the EAWSD did not state its readiness or ability to provide a 100-year water supply because its most recent published hydrologic report states clearly that the EAWSD is **NOT** ready or able to do so.

In 2006, the EAWSD commissioned a hydrologic study to assess the District’s ability to meet existing and future water demands. In 2007, Glorieta Geoscience completed the “Long Term Water Availability and Well-Field Management Study Report” (the “Report”) The Executive Summary for the Report is attached as Exhibit B.

The introduction to the Report states “Since at least 1995 the water supply system has experienced difficulty providing sufficient water to its customer base. A combination of factors including drought, aquifer dewatering, and an aging previously under-maintained infrastructure have contributed to an approximate 30% loss in production capacity between the mid-1980s to its present capacity of approximately 600 gpm.” (p. S1)

The Report evaluates the existing EAWSD wellfield and infrastructure and its ability to meet existing and future demand. The Report states “under this scenario the District

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could be unable to pump sufficient groundwater to meet the demand of 600 afy and there would not be any reserve production capacity for drought or other contingencies.” (p. S7)

The Report includes a graph of well field production that shows production TODAY is less than 600 afy and is declining. (p. S7) The April 9, 2012 report from Karen Torres states that the “total current and future demand” of the EAWSD is 637 afy.

The EAWSD’s *own* conclusion is clear – it is NOT ready or able to provide the existing and future demands of the water system and the additional water use proposed by the application.

The Report addresses a second scenario addressing expansion to increase production, including the potential addition of 6 new wells. This projection has no effect on the Code requirement that the utility state its readiness and ability to provide a 100-year water supply. The Report itself identifies variables upon which the EAWSD’s *future* ability to carry out its objectives would depend:

- Extent to which production in existing well sites can be maintained;
- Availability of real estate and agreements with other land owners;
- Engineering/infrastructure constraints;
- Budgetary considerations;
- OSE/water rights considerations;
- New geohydrologic data; and
- Cooperative agreements with other well owners. (p. S9)

The EAWSD’s own Report makes clear why its letter did not state the readiness or ability to provide the maximum annual water requirements for the development including fire protection for at least 100 years. It is in no position to back up such statements with evidence.

C. The EAWSD-County MOU Does Not Satisfy the Code Requirement

In late 2012, the County and EAWSD entered into a Memorandum of Understanding regarding mutual water services cooperation (the “MOU”). The MOU does not provide any basis or evidence upon which a conclusion that the above-referenced Code requirements have been satisfied. (Exhibit C)

The MOU references the County’s willingness to assist the EAWSD in improving the reliability of the District’s system and the County’s “acknowledgment” that the District’s sources of water supply are more than adequate at the present time to serve its customers.

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and that adequate water resources currently exist to serve existing customers and to serve new developments within the District's service area.

The MOU states "In furtherance of the continued cooperation between the District and County concerning the District's capacity to provide service to new customers, the County agrees that the information provided by the District concerning the adequacy of its water supply is such that, for a minimum of three (3) years from the date of the execution of this agreement, no further information is needed, and the County will accept a 'will serve' letter from the District that it is ready, willing and able to provide a customer with water services as adequate" under applicable regulations. (§2)

With respect to the question of whether the application complies with the Code, the MOU is meaningless. It does not commit either party to do anything and does not contain any substantial evidence of the EAWSD's ability or readiness to meet existing or future demands. Rather, the MOU waves a "magic wand" and says that future development may be carried out because "we say so."

The EAWSD itself recognized that the MOU commits neither party to any action. On October 10, 2012, it issued a letter clarifying that the MOU is not an agreement to connect a pipeline to deliver Buckman Direct Diversion (BDD) water to Eldorado. (Exhibit D, emphasis in original) Furthermore, "there is no agreement for the County to supply, nor the EAWSD to accept, any water at this time" and "the County specifically agreed in the MOU that 'it will not extend its water facilities into the District's Service Area without the prior written approval of the District.'"

In sum, the MOU does not provide any new water and does not change anything with respect to the EAWSD's lack of readiness or ability to provide long term water supplies. Despite the County's "acknowledgments" the only evidence is that the EAWSD is NOT presently ready or able to do so.

D. Conclusion

The efforts that have been and are being made by the County and EAWSD to ensure that demands of existing customers for long-term water supplies are admirable. However, continuing to approve additional developments and further increasing water demands ahead of commitments and funding for specific water projects is not sound policy and violates the Code requirements.

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Similarly, the applicant's willingness to donate a well to the EAWSD is admirable. However, this action does not provide compliance with the Code requirement either. The Code is clear – a utility must state its readiness and ability to provide the maximum annual water requirements for the development including fire protection for at least 100 years and the statements must be backed by evidence.

As addressed above, the only evidence is to the contrary and as a result, the application must be denied.

Sincerely,



Joseph M. Karnes

SFC CLERK RECORDED 03/05/2013

Exhibit A



David Denig-Chakroff
General Manager

James Jenkins, President
Jerry L. Cooper, Vice President
Roberta A. Armstrong, Secretary
Stephen Wust, Director
George Haddad, Director
Gene Schofield, Non-Director

December 29, 2011

Mr. Joseph Miller
286 Riverbank Road
Lamy, New Mexico 87540-7504

Re: Tierra Bello Project

Dear Mr. Miller:

By this letter, the Eldorado Area Water and Sanitation District ("EAWSD") commits to provide water service to your *Spirit Wind West Development* ("Project") in accordance with the District's 2007 New Water Services Policy ("NWSP"), a copy of which is enclosed herewith, the terms stated in this letter, and the Development Agreement ("DA") dated October 17, 2008, and Amendment No. 1 dated August 24, 2010, between EAWSD and the Joseph and Alma Miller Revocable Trust ("Trust") which require the installation of infrastructure water lines and the payment of the service/connection fees ("Requirements").

Subject to the satisfaction of the Requirements, EAWSD is ready, willing and able to provide water service to the entire Project or phases of the Project in an amount not to exceed nine and one half (9.5) acre feet per year ("afy") of water.

All Requirements must be met prior to the initiation of water service to the Project. If the project is phased, then fees will be prorated accordingly and the infrastructure will only need to involve that which is necessary to service the phase.

Further, all terms and conditions of this letter of commitment and the above referenced DA and Amendment have been approved by the EAWSD Board of Directors.

EAWSD looks forward to cooperating with you in the provision of water service to the Project.

ELDORADO AREA WATER AND SANITATION DISTRICT

Cc: EAWSD Board of Directors
Santa Fe County Land Use Department

EXECUTIVE SUMMARY
LONG-TERM WATER AVAILABILITY AND
WELL FIELD MANAGEMENT STUDY REPORT



Prepared For:
ELDORADO AREA WATER & SANITATION DISTRICT



GLORIETA GEOSCIENCE, INC.
P.O. Box 5727 Santa Fe, NM 87502
(505) 983 - 5446 Fax (505) 983 - 6482
www.glorietageo.com

Prepared by: Mustafa Chudnoff and
Meghan Hodgins
July 2007



ELDORADO AREA WATER & SANITATION DISTRICT

HYDROLOGY STUDY AND WELL IMPROVEMENTS PROJECT LONG-TERM WATER AVAILABILITY AND WELL FIELD MANAGEMENT STUDY

Executive Summary

1.0 BACKGROUND AND STUDY OBJECTIVES

The Eldorado Area Water and Sanitation District (EAWSD; "District") owns and operates the water system utility serving the unincorporated community of Eldorado and adjacent developments (Figure S1). The utility was created in the 1970s by the community's developer, AMREP. Subsequently El Dorado Utilities, Inc. (EDU) was established as a wholly owned subsidiary of AMREP that operated the utility until December 2004. At the initiative of the residents of the Eldorado area, the District was established in 1997. The District began operating the utility at the end of 2004 and acquired title to the utility in May 2005.

Since at least 1995 the water supply system has experienced difficulty providing sufficient water to its customer base. A combination of factors including drought, aquifer dewatering, and an aging, previously under-maintained infrastructure have contributed to an approximate 30% loss in production capacity between the mid 1980s to its present capacity of approximately 600 gpm.

Following the purchase of the EDU water system by the District in 2005, the EAWSD Board of Directors initiated the **Hydrology Study and Well Improvements Project (HSWI)** to undertake comprehensive hydrologic and well evaluations of the acquired system that would go beyond previous investigations in addressing two fundamental questions:

- 1) **Is there sufficient recoverable groundwater in storage in the aquifers underlying Eldorado to meet the needs of its existing customer base (~600 afy) for a period of at least 100 years?**
- 2) **To what extent will District wells have to be repaired, deepened and replaced or new wells added to maintain an acceptable and reliable level of service?**

In January 2006 the District contracted Glorieta Geoscience, Inc. (GGI) to provide it with the hydrologic, modeling, and water rights services needed to undertake the HSWI project. GGI was tasked by the District to address four key HSWI project elements:

- (1) Perform a hydrologic study of the current EAWSD wells and aquifers to assess the geohydrologic situation for near-term EAWSD water supply,
- (2) Identify well operation practices and well improvements to increase production and extend the service life of selected existing wells,
- (3) Identify prospective sites and aquifers for drilling new well(s) that would have production potentials of no less than 100 gpm, and
- (4) Develop a groundwater model to assess well field performance and long-term water availability under demand scenarios defined by the District.

HWSI Project elements 1, 2 and 3 are documented in GGI's *Preliminary Hydrologic Assessment* report, issued in February 2007, and other memoranda submitted to the District. This report focused on the unique characteristics, performance history and near-term production trends of the District's existing wells.

The GGI well field management model described in this **Executive Summary** used the results of the *Preliminary Hydrologic Assessment* and previous investigations to develop a numerical groundwater flow model to address the following:

1. The degree of interconnection between the various aquifers underlying the District and surrounding area.
2. The aquifer's long-term (40-100 year) response to continued and expanded production from the District's wells,
3. The decline in well yields that would result from dewatering of the aquifers.
4. The practical lifetime of each District well currently in production.
5. A reasonable well replacement and well addition schedule to offset the anticipated decline in well production.

Previous geophysical, geologic and hydrologic investigations, including the results of well drilling and testing programs undertaken in the Eldorado area are used to support a conclusion that significant groundwater resources underlay the area. The model is not intended to confirm the presence of these aquifers rather it is used to evaluate appropriate alternatives for the development and management of the resource, including sustainable rates of withdrawal.

2.0 GROUNDWATER MODEL FRAMEWORK AND DEVELOPMENT

GGI developed a 10-layer superposition groundwater flow model representation of the District's central well field located in Eldorado. The GGI model was developed as a **well field management tool** for the District using the best available data characterizing the geology and hydrology of the Eldorado area and the District's wells. The model was not prepared as a regional ground water flow model.

2.1 Model Area

The GGI model study area encompasses the community of Eldorado and the surrounding area encompassing approximately 72 square miles (Figure S1). The model incorporates the foothills of the Sangre de Cristo Mountains to the north and northeast, the foothills of the Glorieta Mesa to the east, Galisteo Creek to the south, and the Cerrillos Hills to the southwest. Wells located outside of these boundaries are assumed to have a negligible effect on groundwater levels in the Eldorado area based on the low hydraulic conductivity of the aquifers within the boundary.

2.2 Surface Water Features

Perennial surface water features incorporated into the model include the reach of Galisteo Creek between the communities of Galisteo and Los Cerrillos (the stream creek reach upstream of Galisteo is ephemeral or intermittent) and San Marcos Spring and Coyote Spring

2.3 Recharge and Discharge

The model developed by GGI is a superposition model that only calculates the effects of groundwater pumping on water levels in the aquifers underlying the Eldorado area. Natural

recharge (e.g. infiltration of runoff or snowmelt into the aquifer) and discharge (spring flow, transpiration from phreatophytes and discharge to the Rio Grande) are not represented in the model. Under natural conditions, prior to groundwater development, aquifers are in a state of approximate equilibrium where recharge equals discharge and the amount of groundwater in storage remains constant. Groundwater development by the District and others upsets this equilibrium by mining groundwater in storage. Over time groundwater pumping will induce “recharge” to the aquifer by intercepting water that would have otherwise been used by phreatophytes or discharged to the Rio Grande and springs. GGI’s experience in groundwater model development and applications in geohydrologic environments similar to those found in the Eldorado area suggests the timing of this transition from aquifer mining to inducing recharge is uncertain and its magnitude will be very small. Therefore, both recharge and discharge can be left out of the model.

2.4 Geology

The GGI model incorporates the water bearing geologic formations underlying the Eldorado area, as well as the known faults and fractures zones. Some of the characteristics of the lithologic units contributing water to District wells are summarized in Table S1.

Table S1. Hydrologic characteristics of geologic units in the Eldorado area

Geologic Age	Geologic Unit	Estimated Saturated Thickness	Typical Well Yields (gpm)	District Wells
Quaternary	Alluvium (Galisteo Creek)	0 to 80 ft	25 to >200	9, 10
Quaternary/ Tertiary	Ancha-Tesuque Fm.	0 to 100 ft	25 to >200	1, 2, 6, 7
Tertiary	Espinaso/Galisteo Fm.	0 to 1000 ft	<1 to 25	6
Permian	Sangre de Cristo Fm.	0 to 500	<1 to 20	8
Pennsylvanian/ Permian	Madera Fm. limestone - highly fractured (± solution-enhanced)	0 to 200 ft	25 to 250	13, 14, 15
Pennsylvanian/ Permian	Madera Fm. limestone - fractured	0 to 800 ft	<15	3, 4, 8
Precambrian	Precambrian -Fractured	0 to > 800	<1 to 15	5, 12
Precambrian	Precambrian - highly fractured	0 to 600	80 to 120	17

The horizontal limit of the geologic units represented in the model was determined using observed or inferred locations of formation contacts obtained from a variety of sources including US Geological Survey maps and reports, NM Bureau of Geology and Mineral Resources maps and reports, subsurface data from OSE well logs, and aquifer descriptions and data presented in geohydrologic reports. Horizontally contiguous geologic formations with similar hydraulic characteristics were grouped together in the model. For example, the Galisteo (Tg) and Espinaso (Te) Formations were grouped together in the central and western area of the model, and the Galisteo Formation and the underlying undifferentiated Paleozoic (Pzu and Pm/Pzu) and Mesozoic (Mzu) formations¹ were grouped together in the eastern portion of the model. Figure S2 is a schematic representation of a block of the model area that shows the map view (top of the block) and cross sectional views (block sides) with the superimposed model grid and layers. This

¹ The undifferentiated Paleozoic rocks include the following formations from oldest to youngest: Sangre de Cristo, Yeso, Glorieta Sandstone, San Andres, and Artesia Group. The undifferentiated Mesozoic rocks include from oldest to youngest the: Moenkopi, Chinle Group, Todilto, Entrada and Morrison formations.

block diagram is just a simplified representation of the geology and is not constructed from measured cross sections or geologic maps.

The rock layers or formations underlying the model area are dipping, while the model layers remain horizontal, thus causing a pinch out of the formation in the model layer as shown in Figure S3. To account for the down-dip continuity of formations and horizontal and vertical changes in formation contacts, the formations are moved down into the next model layer as shown. Layers 1 through 5 are each 20 feet thick. Layers 6 and 7 are each 50 feet thick. Layers 8 and 9 are each 300 feet thick and Layer 10 is 900 feet thick. The total thickness of the aquifer represented in the model is 1700 feet.

Figure S2. Schematic block diagram within model area with model grid overlaid.

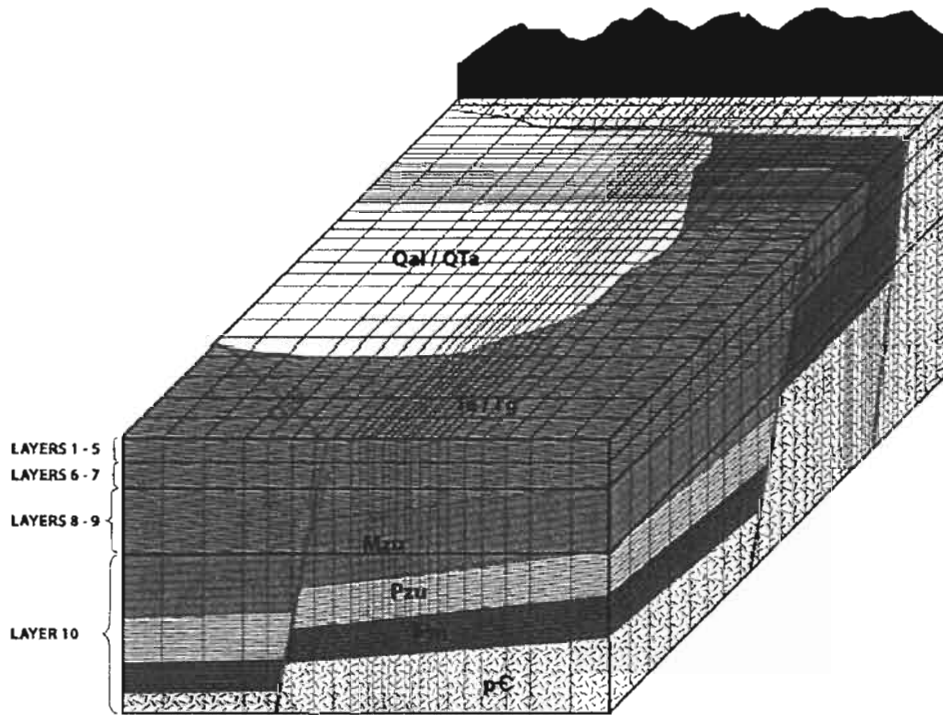
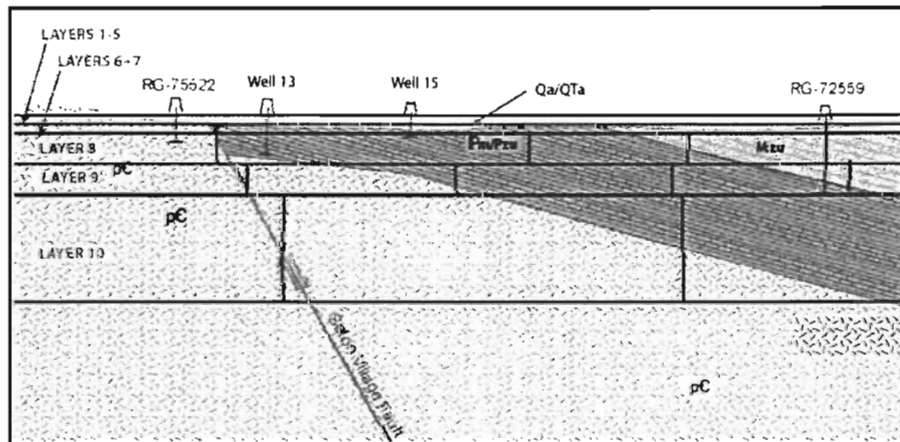


Figure S3. Schematic showing how dipping beds and faults cross model layers



2.5 Existing EAWSD Wells

Well completion data were used to determine into which aquifers the wells were completed. Wells 9 and 10 were not included in the model since their operation is controlled by variable seasonal streamflow recharge of the Galisteo Creek alluvium rather than long-term aquifer water level trends. Historical (from initial well field development in 1969-1970 through 2005) pumping records were input to the model. Water usage data for each well was obtained from District records. The effects of Wells #9 and 10 in the Galisteo Creek alluvium were incorporated into the analysis as an independent annualized average water supply of 84 afy, based upon actual production from those wells for the past 10 years, which was deducted from the targeted withdrawal from the prime aquifers in the central well field.

2.6 Other Wells

OSE and District records indicate that approximately 183 domestic wells are clustered in the northwest area of Eldorado. Approximately 585 residences are located in what is informally referred to as the “welled-area” suggesting that many if not most of these wells serve more than one residence. Assuming each residence annually uses 0.3 acre-feet, their cumulative diversion of 175.5 acre-feet may have a significant, long-term impact on the aquifer and the yield from the District wells that are located in their immediate area (Wells 1 and 2).

2.7 Model Validation

The groundwater model was run for the historical period that begins with the initiation of pumping in 1972 through 2006. The resultant calculated drawdowns were then compared to measured water levels in the District’s wells. The validation process is an iterative process by which the initial model parameter values are modified and the model re-run to obtain the best possible fit between the observed and calculated data.

2.8 Model Limitations and Data Deficiencies

The model was developed utilizing the best available data characterizing the District’s wells, and the geology and hydrology, including known faults and major fractures, of the Eldorado area as known at this time. These data, however, are neither comprehensive nor free from uncertainty. For example, there is limited availability of high quality water level data available from the District’s predecessor, EDU.

Well drilling, aquifer testing and geophysical exploration indicate that there are zones of high fracture permeability within the Precambrian crystalline rock and Madera Formation limestone. These water-bearing fractures are limited in vertical and horizontal extent and are bounded by low permeability rocks. The location and nature of these specific boundaries is uncertain. Therefore their representation in the model is an approximation.

3.0 FUTURE DEMAND AND PRODUCTION SCENARIOS

3.1 General Methodology

GGI used the validated groundwater flow model to develop and evaluate two 100-year modeling scenarios developed by the District in cooperation with GGI as shown in Table S2.



Table S2. Groundwater flow model scenarios

Model Scenario	Total EAWSO System Demand	Wells Pumping in Model
1	Water demand = 600 afy	Only existing EAWSO wells
2	Water demand = 600 afy	Existing EAWSO wells plus new and acquired wells

- Each scenario starts in year 2007 (year 1) and ends in year 2106 (year 100).
- Wells #9 & 10 were not included directly in the model, but their combined annualized production of 84 acre-feet/yr was included in the analysis by subtracting this amount from the scenario demand amount.
- Wells 3, 4 and 5 remain out of production and are not included in the model.
- Wells whose annual production rate declines to 10 acre-feet or less were taken out of production. These wells will either remain equipped as back up wells or will be used as monitoring wells. The model does not assume well rehabilitation or maintenance.
- Well yields will decline if the pumping water level is within the screened interval of the well². Decline in yield is proportional to the calculated decline of the pumping water level within the screened interval of the well.
- Any new wells added to meet demand were assumed to be properly engineered with screened zones and pumps located at proper depths for long-term operation of the wells.

3.2 SCENARIO 1 — 600 AFY WATER DEMAND WITH NO NEW WELLS

Scenario 1 examines the ability of the District's existing production wells to continue producing 600 afy (including the recently completed Well 17) to meet obligations to its current customer base. This scenario evaluates the consequences of the District taking a "no additional well" approach to its well field operations. Well field management practices are limited to minor well maintenance and reconditioning activities.

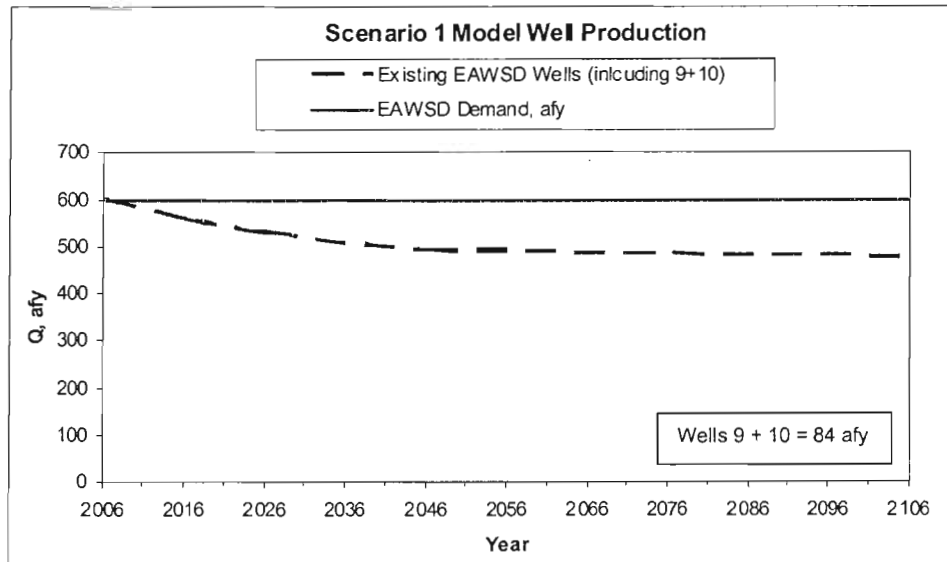
Aquifer drawdowns within the central well field after 100 years under Scenario 1 range from 2 to 30 feet. Most of the drawdown is limited to within one mile of the District's pumping wells with the following consequences:

- A combination of factors including poor well design, pumping effects from other District wells and effects from private wells in the welled area would likely lead to the Well 1 effectively going dry within the next 20 years.
- Well 13, completed in the limestone aquifer would effectively go dry, and nearby Well 14 will lose 36% of its production capacity by 2106.
- Wells 6 and 7 would effectively go dry within the next 40 to 100 years.
- Of the original 10 producing wells, including the recently completed #17, only six would still be producing more than 10 gpm, each, after approximately 40 to 60 years.

Under the modeled Scenario 1, pumping water levels and yields will continue to decline as shown in Figure S4. The continued decline in well yields will be due to both aquifer dewatering and reduced well efficiencies.

² The pumping water levels in 8 of the District's 11 production wells are already within their screened zones.

Figure S4. Graph of Scenario 1 Well Field Production



Scenario 1 Conclusions

The Scenario 1 approach to well field management was to attempt to meet the demand for 600 afy with the existing wells only. Under this scenario the District would be unable to pump sufficient groundwater to meet the demand of 600 afy and there would not be any reserve production capacity for drought or other contingencies.

- Pumping water levels and well efficiencies will continue to decline Total system production would decline to:
 - 559 afy (93% of demand) within 10 years,
 - 529 afy (88% of demand) within 20 years,
 - 495 afy (83% of demand) within 40 years, and to
 - 474 afy (79% of demand) within 100 years.
- The District would lose the use of 4 wells;
 - Well 1 within 20 years,
 - Well 6 within 40 years,
 - Wells 7 & 13 in less than 100 Years.
- Routine maintenance activities such as replacement of pumps and well rehabilitation (e.g. brushing and acidizing) will not be sufficient to maintain overall production levels.
- The well field will not have any reserve production capacity under drought conditions when Wells 9 and 10 would not be available, or under other unforeseen contingency such as equipment failure or malfunction, especially with the major wells in the summer time.

Recommendation: Pumping capacity via new wells must be added to furnish the proper reserve capacity and to meet the current demand levels of 600 afy.



3.3 SCENARIO 2 - 600 AFY WATER DEMAND WITH ADDITION OF NEW WELLS

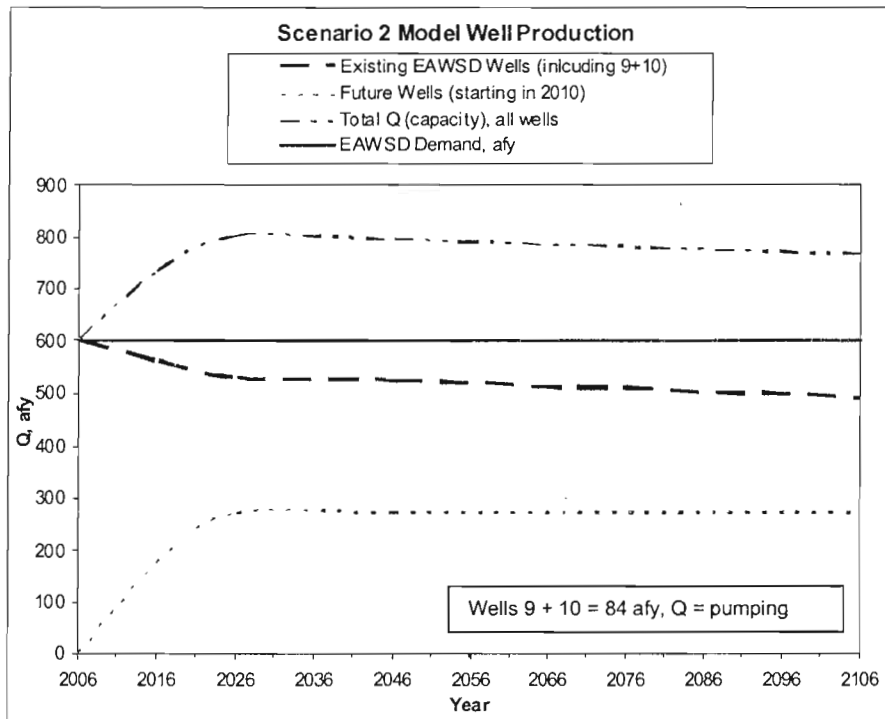
Scenario 2 assumes that the District will adopt best management practices, which in addition to routine well maintenance and reconditioning activities, will include adding six (6) new wells to the system, maintaining a reserve capacity of 200 gpm (above demand production) to meet drought and other contingencies, and reducing production from existing wells to extend their service life. The results of the Scenario 2 model provides: 1) a reasonable assessment of the aquifer's ability to sustain the current demand level of 600 afy for 100 years; 2) a schedule for drilling new wells; and, 3) a well replacement schedule.

Under Scenario 2, aquifer drawdowns after 100 years are shown in Figure S5. Most of the drawdown is limited to within an area of approximately 1.5 miles of the District pumping wells. Regional effects beyond this radius would be minimal, due to the low transmissivity of the aquifer.

Production and well additions

With the addition of the six new wells, as proposed under Scenario 2, pumping from the existing District wells will be reduced. The difference between the 600 afy of demand and the maximum production capacity of these wells would then provide the system the recommended reserve capacity of 200 gpm that should be available to meet drought conditions (when wells 9 and 10 are not available) or other operating contingencies, as shown in Figure S6.

Figure S6. Graph of Scenario 2 Well Field Production (Adding six new wells)



Scenario 2 Conclusions

The results of the Scenario 2 model analysis as well as geohydrologic data compiled in previous investigations support the following conclusion:

There is sufficient recoverable groundwater in storage in the aquifers underlying Eldorado to meet the current demand of 600 afy for a period of at least 100 years, with the addition of six new wells for required pumping capacity, including approximately 200 gpm of reserve capacity.

Specific findings include the following:

1. The District can meet its management objective of producing 600 afy (plus 200 gpm reserve capacity) with the addition of 6 new wells. Most of the wells are required by 2026.
2. The available geohydrologic data indicate that the District should be able to extend its well field outwards, to a modest degree, and deeper to obtain sufficient groundwater to maintain acceptable levels of service to its existing customer base.
3. Approximately 10% of the District's average daily production will continue to be provided by low to moderate (10-20 gpm) yield wells.
4. The projected 100-year drawdowns resulting from the District's well diversions are localized, not regional, with effects of typically less than 1.5 miles.
5. The District will continue to "mine" groundwater from the aquifers underlying its wells at a rate faster than the aquifers can be replenished by groundwater inflow from the surrounding areas. Older wells will go dry or become marginalized due to low production (Wells 1, 6, 12 and 13) over the 100-year period.
6. Adding new wells will allow the District to reduce pumping from its older wells, thereby extending their service life. These older, low yield wells (<10 gpm) will still be available for monitoring, peaking use, and meeting unforeseen contingencies.

The new well locations and completions (e.g. well depth and screen placement) incorporated into GGI's analysis are preliminary and conceptual, based on general geohydrologic conditions of the target aquifers and available well completion and testing data. The target aquifers are not homogeneous, and there is the possibility that production from some of the recommended future wells will be less than desired due to locally unfavorable geohydrologic conditions. The final selection of new well sites and the acquisition of wells constructed by other parties will depend on a number of factors including:

- Extent to which production in existing wells can be maintained,
- Availability of real estate and agreements with other land owners,
- Engineering/infrastructure constraints,
- Budgetary considerations,
- OSE/water rights considerations,
- New geohydrologic data,
- Cooperative agreements with other well owners.

RECOMMENDATIONS

1. The District should implement a capital improvement program (CIP) that includes the acquisition and construction of new wells.
2. The District should implement a well-field management program that includes data collection and analysis, well remediation and optimization of well operations. These activities should include, at a minimum, the following:
 - a. Scheduled measurement and analysis of static and pumping water levels in all on-line and off-line wells (e.g. tracking specific capacity),
 - b. Scheduled well inspections, including video logging,
 - c. Scheduled well remediation, including brushing and acidizing
3. The District should conduct engineering and cost analyses to determine whether improvements to the distribution and storage network may result in deferring new well drilling further into the future.
4. The District should develop and implement well design criteria for use by other parties interested in transferring their wells to the District.

Exhibit C

MEMORANDUM OF UNDERSTANDING BETWEEN THE ELDORADO AREA WATER AND SANITATION DISTRICT AND THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY REGARDING MUTUAL WATER SERVICES COOPERATION

The Eldorado Area Water and Sanitation District, a political subdivision of the State of New Mexico ("District"), and the Board of County Commissioners of Santa Fe County, a political subdivision of the State of New Mexico ("County"), enter into this Memorandum of Understanding this _____ day of _____, 2012.

RECITALS

WHEREAS, the District has rights and responsibilities specified by Law, specifically the Water and Sanitation District Act (NMSA 1978, Section 73-21-1 *et seq.*) and operates a water utility supplying water to its customers within the boundaries of the area served by the District, as shown on Exhibit "A" attached hereto and incorporated herein by reference (the District's "Service Area");

WHEREAS, the County, through its Utility Division, operates a water utility whose principal source of supply is the Buckman Direct Diversion, a joint project of the County and the City of Santa Fe;

WHEREAS, the County, through its Land Use Division, administers the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan (SGMP), and the Santa Fe County Land Development Code (LDC);

WHEREAS, the County and the District share a number of important shared goals, including providing safe water to citizens, providing fire protection, sponsoring water conservation and reuse practices, and providing healthy wastewater management;

WHEREAS, consistent with these shared goals, the County, through its Utility Division, is willing to assist the District from time to time to improve the reliability of the District's system in times of drought or mechanical failure or as otherwise agreed to by the parties by providing access to water supplies from the Buckman Direct Diversion or from any other sources;

WHEREAS, the County's statutory duty through the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code is to assure that proposed development within the County is consistent with statutory requirements and with the LDC, and specifically to assure that a 99-year water supply exists for any proposed development within the County's land use jurisdiction;

WHEREAS, the County acknowledges that the District's sources of water supply are more than adequate at the present time to serve its customers, and also acknowledges Partial Licenses No. RG-18529 and 18556 issued by the Office of the State Engineer and the acknowledgement in those Licenses that the District has available to it 783.43 acre feet per year of water rights with which to supply customers, and further acknowledges that the County's

water experts have thoroughly reviewed the District's sources of supply in connection with recent applications to develop property and have agreed with the District that more than adequate water resources currently exist to serve existing customers and to serve new developments within the District's service area;

WHEREAS, from time to time, disagreements have arisen between the County and the District concerning the District's inherent authority under the Water and Sanitation District Act and the County's functions under the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code, and it is desirable that the County and District work to reduce conflicts in the future in a way that is consistent with the County's statutory obligations, but in a way that fully respects the District's status as a political subdivision of the State and an independent public utility accountable to the voters;

WHEREAS, a constructive way to assure progress on all of these objectives is for the County to agree that the District has provided sufficient present information concerning the District's water supply to justify the County's acceptance of a 'will serve' letter from the District that the District is ready, willing and able to provide a customer with water service as adequate for purposes of the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code for a minimum of three (3) years, and for the County and the District to agree to work towards providing the District with water from the Buckman Direct Diversion project or other sources as available to assist the District in times of drought or mechanical failure or as otherwise agreed by the parties;

WHEREAS, the parties find that it is in their mutual best interest to avoid misunderstanding and disagreement over the areas to be served by each party, and wish to define a mechanism for deciding whether potential customers outside of the District's current Service Area boundaries will be served by the District or the County;

WHEREAS, the County and District are amenable to making such an agreement and to agreeing to work towards a stronger relationship in subsequent agreements so that these and other issues vital to the health, safety and welfare of the community are effectively addressed.

IT IS THEREFORE UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. The County recognizes and understands that the District is a Water and Sanitation District duly organized and existing under the Water and Sanitation District Act, with all the powers, authorities, rights and responsibilities specified therein, and the County recognizes the right of the District under the Water and Sanitation District Act to supply water to existing and new customers and to supply new development within its Service Area boundaries. The County agrees that it will not extend its water facilities into the District's Service Area without the prior written approval of the District.
2. With respect to the previous paragraph, the parties recognize that the County has statutory responsibilities with respect to such new development within the District's

Service Area boundaries. In furtherance of the continued cooperation between the District and the County concerning the District's capacity to provide service to new customers, the County agrees that the information provided by the District concerning the adequacy of its water supply is such that, for a minimum of three (3) years from the date of the execution of this agreement, no further information is needed, and the County will accept a 'will serve' letter from the District that it is ready, willing and able to provide a customer with water service as adequate for purposes of the required review under the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code, without further technical review or inquiry. The County may extend this procedure beyond three years if it finds that the procedure is consistent with its responsibilities.

3. The County recognizes that the District has the authority to extend the boundaries of its Service Area to serve new customers outside of its current Service Area boundaries. If a potential new customer outside of the current District Service Area but within two miles of the District's current Service Area boundaries requests service from either party, the parties agree to consult together and mutually agree whether the potential customer will be served by the County or the District.
4. The County and the District agree to work towards a subsequent agreement whereby the County provides the District with water from the Buckman Direct Diversion project to assist the District in times of drought or mechanical failure or as otherwise agreed by the parties, on terms specified in the subsequent agreement.
5. The County and the District agree to work together from time to time on other mutually beneficial agreements for infrastructure improvement projects, service boundary expansion, system operations and other improvements on terms specified in subsequent or separate agreements.
6. This agreement shall be perpetual. This agreement may also be amended from time to time, in writing, by agreement of the parties.

IN WITNESS WHEREOF the parties have executed this Memorandum of Understanding as of the dates documented below.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____ Date _____
Liz Stefanics, Chair

ATTEST:

Valerie Espinoza, County Clerk

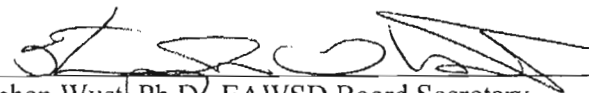
Approved as to form:

Stephen C. Ross, County Attorney

**THE BOARD OF DIRECTORS OF
THE ELDERADO WATER AND SANITATION DISTRICT**

By:  _____ 9-7-12
James Jenkins, EAWSD Board President Date

ATTEST:



Stephen Wust, Ph.D., EAWSD Board Secretary

Approved as to form:

Catherine Robinson, EAWSD Board Attorney

Re: PNM Project

Below is a list of issues that have arisen during the prairie dog monitoring of the project and have the potential to bring great harm to the prairie dog colony. The issues can be resolved if PNM cooperates. In addition to the issues listed below, the ambiguity of the work is an issue, and lends itself to these matters, but with appropriate planning in place the situation can be successfully addressed.

I realize that the work crew is accustomed to working autonomously. It is not my intention to interfere with their work, only to protect the prairie dog colony.

Simultaneous crews: I was not previously informed that this would occur and I cannot monitor two sensitive locations at once, as noted in my report dated December 17, 2012. It is my understanding that this will not continue, but I need assurance in writing that it will not as we approach the most delicate regions.

Requirement for ongoing participation and no compensation: I was very clear that my return trip would require immediate payment before I traveled to Santa Fe on January 10, 2013. The invoice was provided based on a letter that prompted a proposal. The proposal structure and amounts were verbally accepted. My expenses thus far have been graciously and generously funded by People for Native Ecosystems, but neither they nor I will be able to fund my expenses after Wednesday, January 16, 2013.

The project currently has little resemblance to the original plan; thus balancing the needs for flexibility and continuing to protect the prairie dog colony becomes increasingly more difficult. I am concerned that the basic plans that will best protect the prairie dogs will be altered as we go along, which would cause great damage to the animals.



David Chakroff
GENERAL MANAGER

ELDORADO AREA WATER & SANITATION DISTRICT

1 Caliente Road, Suite F • Santa Fe, NM 87508 • (505) 466-2411

James Jenkins, PRESIDENT
Jerry L. Cooper, VICE PRESIDENT
Stephen Wust, SECRETARY
Roberta A. Armstrong, DIRECTOR
George Haddad, DIRECTOR
Gene Schofield, TREASURER

October 10, 2012

EAWSD and County Adopt Memorandum of Understanding on Mutual Water Services Cooperation

The Santa Fe County Board of Commissioners approved a Memorandum of Understanding (MOU) with EAWSD on October 9, 2012, which outlines cooperative efforts they will follow to work together on water service issues and clarifies key issues concerning working relationships between EAWSD and the County. The EAWSD Board of Directors approved the MOU in September.

Despite a report to the contrary in the Santa Fe New Mexican on October 10, the MOU is not an agreement to connect to a pipeline to deliver Buckman Direct Diversion (BDD) water to Eldorado. The District has committed to its ratepayers and residents that no such decision would be made without opportunity for public input. Public meetings about any waterline proposal will be scheduled if and when sufficient details are available to answer questions and properly address the issues.

The approved MOU states that the County and EAWSD will work toward a "subsequent agreement" for any water delivery from the County to EAWSD. There is no agreement for the County to supply, nor for EAWSD to accept, any water at this time.

The County specifically agrees in the MOU, "that it will not extend its water facilities into the District's Service Area without the prior written approval of the District." It further states that the County and EAWSD will work toward a "subsequent agreement" in which the County could provide BDD water to "assist the District in times of drought or mechanical failure or as otherwise agreed by the parties, on terms specified in the subsequent agreement." The MOU also addresses other areas of possible cooperation.

The full text of the MOU between EAWSD and the County can be found at the following link:

http://www.eldoradowaterdistrict.com/about_us/docs.php

David Chakroff, *General Manager*



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EXHIBIT

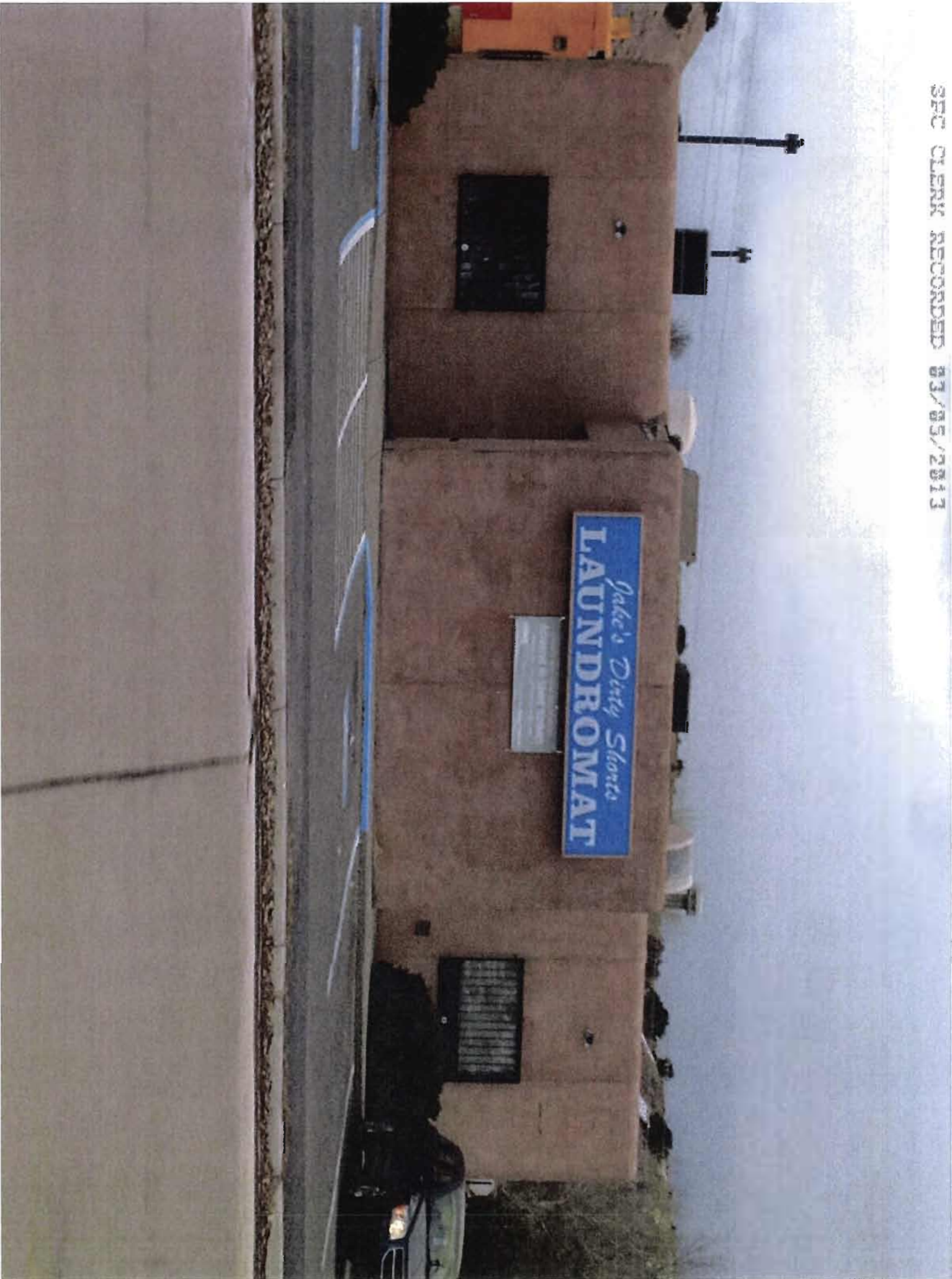
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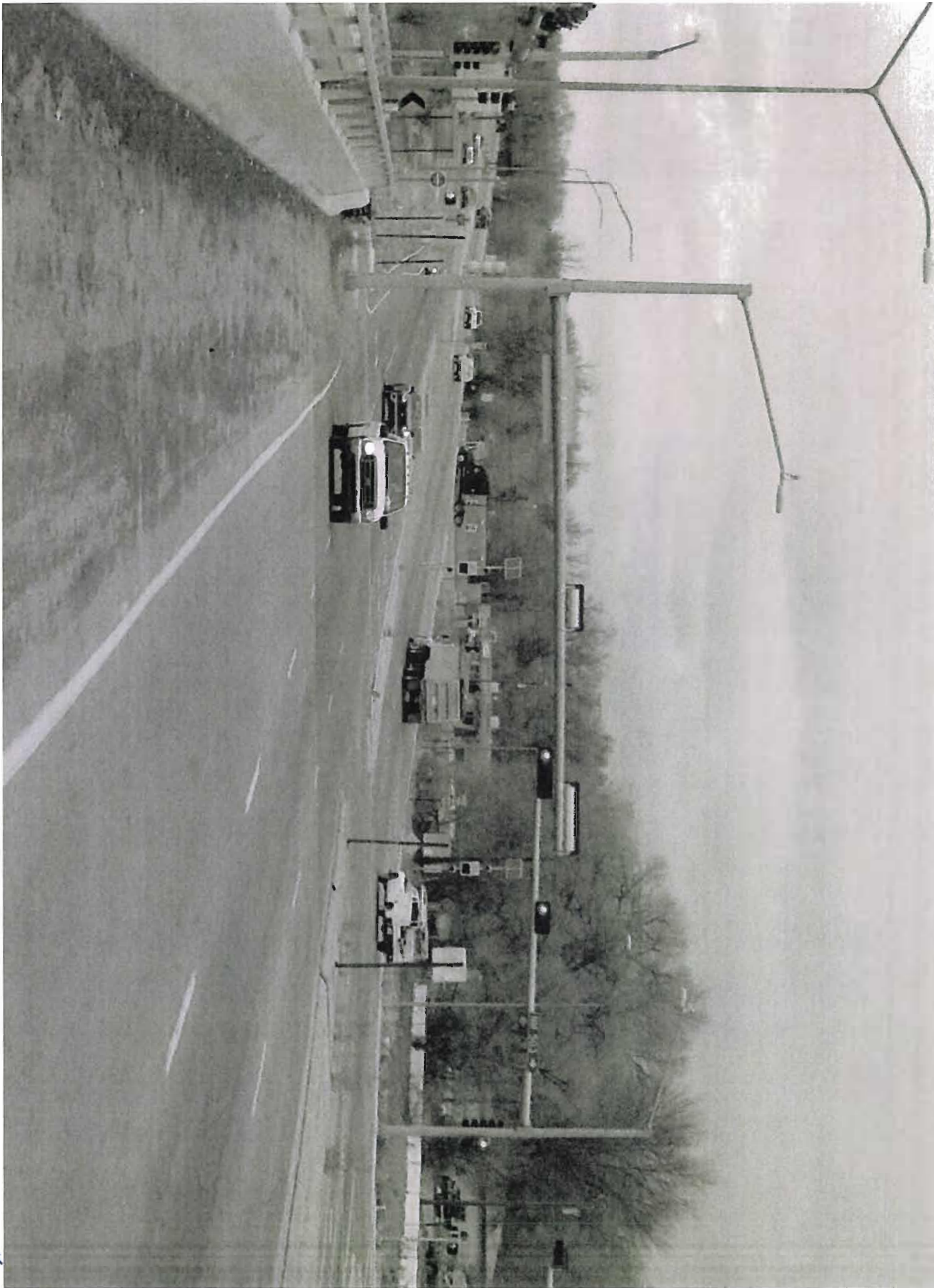












Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kath
Commis

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

EXHIBIT

5

April 20, 2012

TO: Vicki Lucero, Development Review Team Leader
FROM: Karen Torres, County Hydrologist
THRU: Rich Silva, Utilities Department
Patricio Guerrerortiz, Utilities Director

RE: CDRC Case # Z/S 08-5440 Tierra Bello Subdivision Master Plan and Preliminary and Final Approval for Phase I – T15N R10E Projected Sections 24 & 25

The subject development plan was reviewed for technical accuracy and compliance with the SFC Land Development Code. Staff review found Eldorado Area Water and Sanitation District has sufficient water rights and well capacity to meet the existing and future demands of the water system and the additional water use proposed by this application. After a review of the development submittals there is sufficient information submitted for Master Plan approval but request submission of additional information, as outlined below, for review prior to preliminary and final approval.

- Domestic water plans are sufficient to meet this code requirement for master plan but not for preliminary or final approval, as neither plan are stamped with an engineer's seal. Resubmission of properly stamped plans for review by the utilities department is required prior to preliminary and final plan approval.
- Address red-line comments on Development Plans for Tierra Bello Subdivision received March 19th, 2012.
- Preliminary and final plat should incorporate all easements required by EASWSD and all standards for public water facilities.
- Due to soil conditions within the development the analysis required by Article VII Sections 2.4 and 2.6, to determine whether a conventional septic tank is suitable at this site or an advanced treatment system.
- Submission of Water Restrictive Covenants for review prior to final plat approval.

Nature of Project:

The applicant proposes a master plan to create 73 lots ranging in size from 2.708 to 5.868 acres for single family residences. Additionally the applicant seeks preliminary and final approval for

REC'D CLERK RECORDED 03/05/2012

phase I of this development consisting of only 9 residential lots. The subject property is located east of New Mexico State Road 285 and is north of Spur Ranch Road. This project is within projected Township 15 North, Range 10 East, Sections 25 and 25 N.M.P.M, in the Canada de Los Alamos Land Grant.

Water supply for this development will be provided by the Eldorado Area Water and Sanitation District with individual septic tanks for liquid waste disposal.

SFC Land Development Code Requirements for Water and Wastewater:

To address requirements of the SFC Land Development Code the pertinent sections of the Code are written out and are addressed individually as to compliance. Master Plan requirements and will include preliminary and final plat procedures for Phase I. This review is limited to SFC Land Development Code requirements for water and wastewater.

Master Plan Requirements for Water and Wastewater:

Article V, Section 5.2.2 g, Master Plan Procedures, as amended by Ordinance 2005-2, requires a master plan report to include the following:

1. A preliminary water supply plan and liquid waste disposal plan which identifies the source of water, water budget by phase and water conservation plan.
2. Submission of a water supply plan for the first sustainable phase of development, as required by Article VII, Section 6 of the Code.

Liquid Waste Disposal Plan

The development report submitted by the applicant states the proposed lots will use individual septic tanks.

Article VII, Section 6 - Water Supply Plan

Article VII, Section 6.2 entitled General Requirements and Submittals for a Water Supply Plan sets forth requirements based on the type and scale of the development. Table 7.4, entitled Required Code Sections for Water Supply, states any development which includes construction or expansion of a community water system, which describes the subject development, is required to submit a water supply plan which consists of submittals compliant with the following code requirements

1. *Article VII, Section 6.3 Community Water Systems*
2. *Article VII, Section 6.4 entitled "Water Availability Assessments"*
3. *Article VII, Section 6.5 entitled "Water Quality"*
4. *Article VII, Section 6.6 entitled "Water Conservation"*
5. *Article VII, Section 6.7 entitled "Fire Protection"*

Each of these code requirements are addressed separately as to compliance for phase I of the subject development. 6.3, 6.4, 6.5, 6.6, 6.7 of the Santa Fe County Land Development Code are required to submit information

Article VII, Section 6.3: Water Supply Plan - Community Water Systems

This article states community water systems shall be required for subdivisions according to the number and size of lots as indicated in Article V Section 9.3, Table 5.1. From Table 5.1 developments that propose between 25 - 99 lots between the size of 2.5 and 10.0 acres are required to have a community water system to serve the project. The Tierra Bello Development is required to either create or connect to a community water system. The code has specific requirements for submittals and review of community systems as follows:

The applicant shall submit a water supply plan which demonstrates that the [water] system will comply with the requirements of Section 6.3.1 of Article VII. The water supply plan shall be prepared by or under the supervision of a professional engineer and shall include the following:

- a) *Information showing the volume and peak rate of production of water required for each month to supply each use at full use of the development*

The last review of water use for EAWSD included data from 2006 to 2008 and is revised in this review to include the years 2009 – 2011. The goal of this analysis is to understand the average monthly volume of water as a percentage of the annual use for the current demand and apply that percentage to future water use. The highest monthly water use occurred in June with an average of 63 acre-feet. Using the monthly water use data, a monthly peaking factor was derived.

The projected water demand for future near term projects, to be served by EAWSA, is summarized in a 2007 Preliminary Engineering Report by Daniel B. Stephens & Associates. A total of 92.75 acre-feet of water is necessary for planned residential and commercial development which includes the Tierra Bello Development. The annual water budget for the entire Tierra Bello development (9.5 acre-feet) and the other future developments (83.25 acre-feet) was divided by 12 to get a monthly average water use. The monthly peaking factor was then applied and is summarized in the table below. It is estimated the Tierra Bello development and future projects will increase the demand for the month of June by a total of 11.7 acre-feet, where Tierra Bello accounts for 2.1 acre-feet on this demand.

Table 1: Monthly Water Demand for Current and Future Use

Monthly Water Use (acre-feet)	Jan (af)	Feb (af)	Mar (af)	Apr (af)	May (af)	Jun (af)	Jul (af)	Aug (af)	Sep (af)	Oct (af)	Nov (af)	Dec (af)	Total
2006 af/mo	40	39	40	52	61	62	49	42	40	40	35	35	534 af
2007 af/mo	41	35	37	37	46	60	61	66	61	52	45	35	574 af
2008 af/mo	38	37	39	44	67	75	55	53	52	40	35	33	568 af
2009 af/mo	34	33	37	39	58	55	63	59	45	40	34	33	528 af

2010 af/mo	33	22	31	37	56	62	53	55	54	45	34	34	516 af
2011 af/mo	35	35	37	45	58	65	63	55	46	41	33	32	544 af
Average af/mo	37	33	37	42	58	63	57	55	50	43	36	34	544 af
Monthly Peaking Factor	0.81	0.71	0.80	0.89	1.25	1.39	1.29	1.26	1.13	0.96	0.79	0.73	
Future Projects (83.25 acre-feet)	5.6	5.1	5.6	6.5	8.8	9.6	8.7	8.4	7.6	6.6	5.5	5.1	
Demand – Tierra Bello (18.25 acre-feet)	1.2	1.1	1.2	1.4	1.9	2.1	2.0	1.9	1.7	1.5	1.2	1.1	18.25 af
Total Current (2011) and Future Demand (637 acre-feet)	43.0	37.7	42.2	48.8	65.1	70.6	67.1	64.4	57.2	50.5	41.9	39.3	637 af

- b) *Plans and specifications for production or diversion, storage and distribution facilities and a time schedule for their completion, prepared by or under the supervision of a registered professional engineer.*

From the submittal it appears distribution lines are in existence to serve the Tierra Bello Development. An existing domestic water distribution and fire protection plan for the first phase in addition to as-built water plans for the previous development configuration were submitted by the applicant for staff and NMED to review. These plans are sufficient to meet code requirement for master plan but not preliminary or final approval, as neither plan are stamped with an engineer's seal. Resubmission of properly stamped plans for review is required prior to preliminary and final plan approval.

Any additional infrastructure necessary for this development will be designed and constructed under the terms of the Development Agreement- Tierra Bello West, dated October 17th, 2008, between EAWSD and the applicant.

- c) *A legal description of the location of all construction easements and right-of-way necessary for the installation of the water supply system.*

Plans of existing domestic water distribution and fire protection plan for the first phase in addition to as-built water plans for the previous development configuration were reviewed. No clear indication of utility easements for water lines could be located. The applicant has not met code requirements for preliminary and final approval. Preliminary and final plat should incorporate all easements required by EASWSD and all standards for public water facilities.

- d) *Well plans indicating casing diameter, total depth, screened interval and proposed pump setting.*

EAWSO provided multiple reports on the wells that serve the central well field and the Galisteo wells which document well construction and production. The following table is a summary of well information:

EAWSO Well No.	OSE File No.	Total depth	Casing Diameter	Screened interval (Feet-BGL)	Pump setting (Feet- BGL)
1	RG 18528	700	10-3/4"	350-650	630
2	RG 18529	250	8-5/8"	120-131 160-209	280
3	RG 18543	320	10-3/4"	114-320	214
4	RG 18550	365	10-3/4"	75-360	167
5	RG 18515	192	6"	UNK	175
6	RG 18571	280	8-5/8"	220-265	260
7	RG 18595	280	8-5/8"	180-212 234-255	268
8	RG 18531	312	8-5/8"	165-215 268-275	190
9	RG 18556	134	12-3/4"	50-90 100-120	100
10	RG 18524	65	6"	unk	
11	RG 18523	unk	6"	UNK	
12	RG 18517	197	6"	UNK	80
13	RG-18529-S	407	6-5/8"	160-200 220-290	310
14	(RG -18528, RG-18543 & RG-18550)-S	385	8-5/8"	235-315 345-385	315
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	407	8-5/8"	289-400	280
17	RG-88450	675	6 5/8 "od	396-457; 497-637	unk
18	License No. RG-18529 & RG-18556	713	8.625	420 - 700	unk

- e) *An agreement providing for:*
- i. *The construction and operation of the water supply system as shown in the plat documents and plans*
 - ii. *Collateral, in the form of a performance bond or other means, adequately assure the complete construction and operation of the system in accordance with design and time specifications*
 - iii. *Certification of the operator of the system*
 - iv. *Involvement as prescribed in the plat documents of a Homeowner's Association, Mutual Domestic Association, or non-profit corporation for the purpose of operation and maintenance of the system.*

The development will be served by the expansion of an existing water system and the future homeowners will not have the responsibility of operating the water system. Development Agreement between the applicant and EAWSD, dated October 17th 2008, assures the construction and operation of the water system serving this development. Therefore, the code requirement for *Section 6.3.1 of Article VII (e)*, relating to the operation of EAWSD, is met.

- f) If the developer is within a declared basin, the applicant shall obtain a valid water right permit issued by the State Engineer pursuant to Section 6.2.2 of this section.*

Tierra Bello will be served by EAWSD so it is not the applicant but rather the water system that is required to obtain a valid water right permit. A review of Office of the State Engineer records demonstrates EAWSD has valid water right permits sufficient to serve this development. Any requirement of additional water rights is governed by the development agreement between the applicant and EAWSD. Further discussion of water rights is later in this memo.

Article VII, Section 6.3: Required Submittals - Community Water Systems

Requirements for Community Water Systems: *Article VII, Section 6.3.1*

- a) When a community water system is required, the developer shall provide water from existing or proposed water supply systems for domestic use, fire protection, and any other use that the developer proposes.*

Letter from Eldorado Area Water and Sanitation District dated October 17th, 2008 states they commit to provide up to 18.25 acre-feet of water for water service (inclusive of fire protection) to the entire Tierra Bello Development.

- b) The developer shall provide for the completion of the proposed water supply systems, in accordance with applicable minimum design standards of the New Mexico Environment Department and the Construction Industries Division.*

By the water development agreement between EAWSD and the applicant, the completion of the proposed waterline extension is provided for.

- c) The developer shall meet fire flow requirements set forth in Article VII Section 6.7.*

Section 6.7.6, as amended by Ordinance 1998-10, states residential subdivisions shall have fire hydrants which are designed to flow at least 500 gallons per minute with 20 psi for a two hour minimum. On September 12, 2007 a Technical Memorandum was issued by IDModeling address these code requirements and did not identify any deficiencies in storage or fire flows in Pressure Zone PZ-3R where the proposed development is located.

- d) The developer shall provide sufficient potable water for full development of all properties within the proposed development*

Addressed in commitment letter from EAWSD.

- e) *If the development is in a Traditional Community District, the community water system shall be designed to minimize the use of local water resources. The applicant shall obtain water rights as the State Engineer requires. The community water system shall be consistent with the Local Land Use and Utility Plan, if any.*

The subject development is not within a Traditional Community District, this requirement is not applicable.

- f) *All distribution mains shall be a minimum of six inches in diameter*

An existing domestic water distribution and fire protection plan for the first phase in addition to as-built water plans for the previous development configuration were submitted by the applicant for staff and NMED to review. These plans are sufficient to meet code requirement for master plan but not preliminary or final approval, as neither plan are stamped with an engineer's seal. Resubmission of properly stamped plans for review is required prior to preliminary and final plan approval.

- g) *It shall be noted on the final plat and plans and in the covenants and disclosure statement that the drilling or use of individual or shared wells is strictly prohibited.*

The restriction of drilling or using a well is noted on the final plat. Minor edits were suggested to the covenants and disclosure and were submitted to the case manager in red line format.

- h) *The developer shall meet all applicable requirements of the Public Utility Act Articles 1 through 6 and 8 through 13 of Chapter 62 NMSA 1978.*

EAWSD does not fall under the jurisdiction of the PRC with the exception of rate adjustments so this part of the code does not appear to apply to this development.

Article VII, Section 6.4 entitled "Water Availability Assessments"

For developments where the source of supply will be an existing community or municipal supply system the applicant shall submit a water availability assessment in accordance with Section 6.6.4. This section requires a willingness to serve letter from the water system, proof of existing water rights, quantity of water presently produced and plans for the existing water system as outlined below

6.4 Water Availability Assessments – Community Water Systems

Article VII Section 6.4.4 entitled community water systems for which existing utility companies are proposed as the source of water supply, the applicant shall submit a water availability assessment which includes the following:

- i. *Name of the utility proposed as the source of supply and letter of intent from the utility that they are ready, willing and able to provide the maximum annual water requirements for the development including fire protection for at least 100 years.*

Eldorado Area Water and Sanitation District (EAWSD) is the source of supply for this development. Letter from EAWSD dated December 29, 2011 states the district is ready, willing and able to provide up to 18.25 acre-feet per year of water to serve the Tierra Bello Development. Though this letter did not specifically state the district can provide fire protection for at least 100 years it is presumed fire protection is provided as part of the residential water service.

- ii. *Documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date and proof of sufficient water rights to meet both existing commitments and the requirements of the development for at least 100 years.*

1. Annual Water Use and Future Water Supply Commitments

This item was addressed in the review of Section 6.3.1 of this Article VII on page 3 but is repeated here for ease of reading. The last review of water use for EAWSD included data from 2006 to 2008 and is updated in this review to include the years 2009 – 2011. The goal of this analysis is to understand the average monthly volume of water as a percentage of the annual use for the current demand and apply that percentage to future water use. The average annual water use is 544 acre-feet per year with highest monthly water use occurring in June, with an average of 63 acre-feet. The monthly data was evaluated and a monthly peaking factor was derived.

The projected water demand for future near term projects, to be served by EAWSA, is summarized in a 2007 Preliminary Engineering Report by Daniel B. Stephens & Associates. A total of 92.75 acre-feet of water is necessary for planned residential and commercial development which includes the Tierra Bello Development. The annual water budget for the entire Tierra Bello development (9.5 acre-feet) and the other future developments (83.25 acre-feet) was divided by 12 to get a monthly average water use. The monthly peaking factor was then applied and is summarized in the table below. It is estimated the Tierra Bello development and future projects will increase the demand for the month of June by a total of 11.7 acre-feet, where Tierra Bello accounts for 2.1 acre-feet on this demand.

Table 1: Monthly Water Demand for Current and Future Use

Monthly Water Use (acre-feet)	Jan (af)	Feb (af)	Mar (af)	Apr (af)	May (af)	Jun (af)	Jul (af)	Aug (af)	Sep (af)	Oct (af)	Nov (af)	Dec (af)	Total
2006 af/mo	40	39	40	52	61	62	49	42	40	40	35	35	534 af
2007 af/mo	41	35	37	37	46	60	61	66	61	52	45	35	574 af
2008 af/mo	38	37	39	44	67	75	55	53	52	40	35	33	568 af
2009 af/mo	34	33	37	39	58	55	63	59	45	40	34	33	528 af
2010 af/mo	33	22	31	37	56	62	53	55	54	45	34	34	516 af

2011 af/mo	35	35	37	45	58	65	63	55	46	41	33	32	544 af
Average af/mo	37	33	37	42	58	63	57	55	50	43	36	34	544 af
Monthly Peaking Factor	0.81	0.71	0.80	0.89	1.25	1.39	1.29	1.26	1.13	0.96	0.79	0.73	
Future Projects (83.25 acre-feet)	5.6	5.1	5.6	6.5	8.8	9.6	8.7	8.4	7.6	6.6	5.5	5.1	
Demand – Tierra Bello 18.25 acre-feet)	1.2	1.1	1.2	1.4	1.9	2.1	2.0	1.9	1.7	1.5	1.2	1.1	18.25 af
Total Current (2011) and Future Demand (637 acre-feet)	43.0	37.7	42.2	48.8	65.1	70.6	67.1	64.4	57.2	50.5	41.9	39.3	637 af

2. Proof of Sufficient Water Rights

The following is a brief summary of the decreed, permitted and licensed water rights for EAWSD wells.

- On March 3, 1971 Eldorado at Santa Fe filed 84 Declarations of Ownership of Groundwater Right for the original wells which served the utility.
- On December 20, 1972 under Cause No. 45612 the nature and limitations of the water rights associated with the original declared wells were decreed. The amount of water that may be diverted from each well was established under various permits issued by the OSE as follows:

EAWSD Well No.	OSE Permit No.	2007 Well Use (afa)	2008 Well Use (afa)	2009 Well Use (afa)	2010 Well Use (afa)	2011 Well Use (afa)	Maximum Diversion of Water as Decreed and Permitted (afa)
1	RG 18528	25.08	0	0	0	0	151.3
2	RG 18529	33.39	67.05	74.8	4.8	37.9	305.9
3	RG 18543	0	0	0	0	0	82.1
4	RG 18550	8.08	6.7	1.6	0	0	82.1
5	RG 18515	0	0	0	0	0	24.0
6	RG 18571	6.47	15.26	6.5	2.9	5.2	45.7
7	RG 18595	.76	4.30	13.4	10.6	17.5	82.0
8	RG 18531	8.09	14.99	16.24	14.2	23.5	46.9
9	RG 18556	163.24	92.06	129	124	2.3	195.4
10	RG 18524	2.21	5.15	4.8	5.1	0	4.8
12	RG 18517	14.90	13.31	4.4	0	0	17.4

13	RG-18529-S	.03	0.62	0	0	0	Supplemental to Well 2.	
14	(RG -18528, RG-18543 & RG-18550)-S	110.57	91.44	93	85.5	109	Supplemental to Wells 1, 3 & 4. Diversion shall not exceed 111.7 acre-feet	
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	201.58	240.38	185	186.6	198	Supplemental to Wells 1, 2, 3, 4, 5, 6, 7, & 8. Diversion shall not exceed the sum of the 780.7 acre-feet	
17	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531 and RG-18517)-S		16.97	.19	43.8	106	Not to exceed 111.07 acre-feet per annum.	
18	Permit Pending					36.7	Permit Pending	
Total Annual Water Use (af)		574	568	528	516	544		
Total Licensed Water Right (af)		783.43 acre-feet per year						

- On June 4th 2010 Partial License Nos. RG-18529 and RG-18556 was issued by the State Engineer. Partial License RG-18529 allows EAWSD to divert 583.23 acre-feet per year from the central well field and assigns a priority date ranging from 1968 to 1970. Partial License No. RG-18556 allows the diversion of 200.2 acre-feet per year from the Galisteo Creek Wells. (Well Nos. 9 and 10) and assigns a priority date ranging from 1968 to 1970. The total amount of water rights recognized under these licenses is 783.43 acre-feet per year.
- Partial License Nos. RG-18529 and RG-18556 allow for the application of water to beneficial use of 254.37 acre-feet per year above the licensed 783.43 acre-feet. EAWSD was given 20 years to perfect these water rights and submit Proof of Beneficial Use.

Based on the amount of water rights recognized under Partial License Nos. RG-18529 and RG-18556 and projected future demand of 637 acre-feet per year EAWSD has more than enough water rights to meet current and future water demands of the system; as well as the Tierra Bello Development.

iii. For New Mexico Public Utilities Commission (PUC) certified utilities, a copy of the most recent annual report submitted to the PUC.

EAWSD is not required to report to the PUC (now PRC) so this code requirement is not applicable

iv. Plans for the existing water system to which the proposed system will connect into. The plans shall show diversion point locations and water storage and distribution system. The size or capacity of the water system components should also be indicated on the plans.

The May 9, 2007 NMED, *Sanitary Survey Report Eldorado Water & Sanitation District WSS# 37326* states - The Eldorado Water and Sanitation District water system serves a population of approximately 7500, through 2904 service connections and approximately 70 commercial connections. The water system consists of fourteen wells (now fifteen), eight storage tanks, six treatment plants, three booster stations, and distribution. Notes: Well number 11 is no longer part of the system. Wells 3, 5, & 10 are still physically connected but not being used. Well 13 is still connected but no longer used. Meter reading submitted by EAWSD for 2007 and 2008 support NMED's finding that, with the exception of well 10, wells 3, 5 and 11 are not used to supply water to the system.

To estimate well capacity of the water system the design production of the wells currently on-line were obtained from EAWSD and reviewed. Since it is unreasonable to presume wells are pumped 100% of the time the well production was reduced by 60% to reflect reasonable well operation. It should be noted that wells 9 and 10 are shallow wells located near Lamy and within the streambed of Galisteo Creek. These wells are sensitive to drought and on several occasions have had a significant reduction in yield. For this reason, wells 9 and 10 are not a reliable supply of water every year and were not considered in this capacity analysis. Additionally Well 18 is excluded as it is not permitted for use by the State Engineer. A summary of EAWSD well production is as follows:

EAWS Well No.	OSE File No.	Design Capacity 100% (GPM)	Well Capacity 60% (GPM)	Well Capacity (acre-feet per year)
1	RG 18528	60	36	58
2	RG 18529	130	78	126
3	RG 18543	Disconnected	-	-
4	RG 18550	25	15	24
5	RG 18515	Disconnected	-	-
6	RG 18571	50	30	48
7	RG 18595	25	15	24
8	RG 18531	50	30	48
9	RG 18556	180	108	Lamy Well
10	RG 18524	UNK	-	Lamy Well
11	RG 18523	Disconnected	-	-
12	RG 18517	20	12	19
13	RG-18529-S	200	120	194
14	(RG -18528, RG-18543 & RG-18550)-S	250	150	242
15	(RG -18528, RG-		210	339

	18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	350		
17	RG-88450	115	69	111
18	License No. RG-18529 & RG-18556	300 (not permitted)	-	-
Total Well Production at 60%			873 gpm	1,233 acre-feet

The amount of water that can be reasonably produced from the EAWSD central well field is estimated at 873 gallons per minute for wells currently on-line and permitted. Based on the highest water use month the estimated daily demand for current and future projects is 558 gpm but this does not account for peak daily use. Daily peaking issues are addressed through the use of storage. Based on this estimate there appears to be sufficient production from the EAWSD wells to meet current, future and the 18.25 acre-feet of demand proposed for this project.

- v. *Any other information, including any or all of the requirements of Sections 6.4.2 and 6.4.3 required by the Board or the County Development Review Committee to make a determination that the utility has the capability to meet the water requirements of the development.*

Additional information on this water system, as required by sections 6.4.2 and 6.4.3, is not necessary at this time as the water system has demonstrated sufficient capacity and water rights to serve the proposed development.

Article VII, Section 6.5 -Water Quality

No water quality information was submitted to the County to review but as EAWSD is a community water system they are required by NMED to meet all drinking water standards set forth by the Environmental Protection Agency. A review of the latest Sanitary Survey and NMED Drinking Water Bureau website did not indicate any water quality issues.

Article VII, Section 6.6- Water Conservation

Water Budget

Water budget submitted for review is reasonable and utilized an acceptable methodology, therefore this requirement of the Land Development Code has been met.

Water Restrictive Covenants

The report states that the lots will comply with the Santa Fe County water conservation ordinances. These restrictions should be reflected in the Water Restrictive Covenants for the development. Water conservation covenants reflecting the water conservation practices within LDC Article VII Section 6.6.2, Santa Fe County Ordinances 2002-13, 2004-7, 2003-6, 2006-3, 2006-8 should be submitted.

Article VII, Section 6.7- Fire Protection

Article VII, Section 6.7.6, as amended by Ordinance 1998-10, states residential subdivisions shall have fire hydrants which are designed to flow at least 500 gallons per minute with 20 psi for a two hour minimum. On September 12, 2007 a Technical Memorandum was issued by IDModeling address these code requirements and did not identify any deficiencies in storage or fire flows in Pressure Zone PZ-3R where the proposed development is located.

Article VII, Section 2 - Liquid Waste Disposal Requirements

Article V, Section 5.2.2. g, 8 entitled Master Plan Procedures requires a preliminary liquid waste disposal plan for the first sustainable phase of development, as required by Article VII, Section 2 of the Code. It should be noted wastewater requirements were amended by Ordinance 1999-1

Article VII, Section 2.2 (as amended by Ordinance 1999-1)

Table 7.1 of this section requires the submission of liquid waste disposal documentation package for subdivision proposing individual liquid water disposal systems, as described in Section 2.6.

Article VII, Section 2.6 (as amended by Ordinance 1999-1)

The following items are required for a liquid water disposal package:

2.6.1- A copy of the sub divider's disclosure statement relating to liquid waste disposal

2.6.2 – The location of proposed distance separation of all proposed and existing wells, sewage adsorption areas, community sewage systems and community water supply systems within the proposed subdivision or large scale residential development and existing wells and drain fields within 500 feet of the proposed subdivision or large scale residential boundary.

2.6.3 – A map showing the location of all arroyos, flood plains and bodies of water within the proposed subdivision or development and within 1,000 feet of the proposed subdivision or development boundary.

2.6.4 – A soil investigation report, including a soil survey, soil borings to a minimum depth of 8 feet, soil test results and an analysis of the soil survey, soil boring and soil tests. The report shall define soil depth to bedrock, seasonal high groundwater table or other limiting soil layer and percolation rate for the soils present with the proposed development. There shall be a minimum

of 1 boring and 1 percolation test per 10 lots; the locations of these borings and test shall be distributed over the site to adequately represent the site soil conditions.

2.6.5 - A liquid waste system feasibility map, superimposed on the subdivision plat or development plan delineating the areas suitable, limited and prohibitive soils as defined in Table 7.2 and delineating required setback distances as defined in Table 7.3. The feasibility map shall delineate slopes of 9% to 15% and slopes more than 15%.

2.6.6 - The flood frequency of areas within the proposed subdivision or development

2.6.7 - A detailed description of the kind of individual liquid waste disposal systems, if any, that are to be used by the occupants of the subdivision or development. Preliminary plans for individual liquid waste disposal systems if a system will serve more than one connection.

2.6.8 - The projected population of the subdivision or development.

2.6.9 - The direction of movement of ground water in the subdivision or development

2.6.10 - An analysis which indicates the individual liquid waste disposal systems can be used for each lot in compliance with all applicable New Mexico Environment Department regulations in effect at the time the application is made and all requirements of Section 2.4 of this Article, without need for any variance from their requirements.

2.6.11 - At the discretion of the Board, as applicant of a development permit, may be required to analyze the effect of wastewater discharges on groundwater quality over a 100 year time frame to demonstrate that potable water supplies new available to wells within one mile of the development shall not be caused to be unpotable during the 100 year period as a result of the proposed development.

The development report submitted by the applicant states the proposed lots will use individual septic systems which will incorporate gray water systems for irrigation. The original language in the report stated gray water will serve to meet individual irrigation but such use was not indicated on the water budget. An e-mail from the applicant's agent received March 29th, 2012, has clarified that such systems will be installed at the discretion of the homeowner and cannot be used to reduce the water budget for each lot. Given this the developer is not required to submit engineering plans for a grey water system.

The documentation submitted by the applicant does not meet code requirement for liquid waste disposal. Additionally, the plat notes state the soils in the development are moderate to severe regarding development of septic tank but is not addressed in the development report or disclosure statement. An analysis of site conditions, pursuant to all requirements of Article VII Section 2.4 and 2.6, to determine if a conventional septic tank or an advanced treatment system appropriate for the development site is required prior to preliminary and final development approval.

It is recommended county staff work with the applicant to outline necessary submittals to meet code requirements. This can be handled administratively as a condition prior to final plat approval.

Conclusions

Staff review found Eldorado Area Water and Sanitation District has sufficient water rights and well capacity to meet the existing and future demands of the water system and the additional water use proposed by this application. Additionally staff concludes there is sufficient information submitted for Master Plan but request submission of additional information, as outlined below, for review prior to preliminary and final approval.

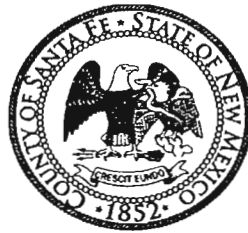
- Domestic water plans are sufficient to meet this code requirement for master plan but not for preliminary or final approval, as neither plan are stamped with an engineer's seal. Resubmission of properly stamped plans for review by the utilities department is required prior to preliminary and final plan approval.
- Address red-line comments on Development Plans for Tierra Bello Subdivision received March 19th, 2012.
- Preliminary and final plat should incorporate all easements required by EASWSD and all standards for public water facilities.
- Due to soil conditions within the development the analysis required by Article VII Sections 2.4 and 2.6, to determine whether a conventional septic tank is suitable at this site or an advanced treatment system.
- Submission of Water Restrictive Covenants for Review prior to final plat approval

If you have any questions, please feel free to call me at 992-9871 or email at ktorres@co.santa-fe.nm.us.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



L
Comm

K
Comm

Katherine Miller
County Manager



CLERK RECORDED 03/05/2013

**PUBLIC WORKS DIVISION
MEMORANDUM**

Date: January 16, 2013
To: Vicki Lucero, Development Review Team Leader
From: Paul Kavanaugh, Engineering Associate *R*
Johnny P. Baca, Traffic Manager *JP*
Re: CASE # 08-5440 Tierra Bello Subdivision Master Plan with Preliminary and Final Plat and Development Plan for Phase I.

The referenced project has been reviewed for compliance with the Land Development Code, and shall conform to roads and driveway requirements of **Article V (Subdivision Design Standards) and Section 8.1 (General Policy on Roads)**. The project is located south of Avenida Eldorado, east of Avenida de Compadres, north of Spur Ranch Road and west of New Mexico State Road 285. The applicant is requesting Master Plan approval for a seventy-three (73) lot single-family residential development on 263.769 acres parcel of land and Preliminary and Final Development Plan for Phase I (9 units).

Access:

The project is proposing to access Tierra Bello Subdivision from Avenida de Compadres an existing unimproved dirt road.

Conclusion:

Public Works Staff has reviewed the project and feels they **can** support the above mentioned project.

The following must be addressed at time of DEVELOPMENT PERMIT for Phase I;

1. Applicant shall be required to obtain a road construction permit from Public Works Department prior to any work on Avenida de Compadres.
2. Santa Fe County Public Works will require a pre-construction conference prior to starting any construction.
3. Santa Fe County Public Works will require a construction schedule prior to construction.
4. Applicant shall provide Santa Fe County with a permit from the Army Corp of Engineers prior to installing culverts on Avenida De Compadres.
5. Applicant shall provide Santa Fe County with a N.O.I. (Notice of Intent) prior to any construction on Avenida De Compadres.



*Board Meetings
*1/17 & 2/7
ECIA Railroad Rm.
7:00 PM*

EAWSD Board meetings are held every first and third Thursday of each month in the Railroad Rm. at ECIA (Eldorado Community Center) starting at 7 p.m. *The second meeting date is subject to cancellation. The public is encouraged to attend, and each meeting has a time for public questions and comment. The meeting agenda is posted in advance on the District website and outdoor displays at the EAWSD office, Agora shopping center and ECIA.

2013 BOARD ELECTION RESULTS

On January 8, an election was held for two District Board positions. Current Board President, **Jim Jenkins**, was re-elected to POSITION 3. **Thomas L. Willmott** was elected to fill open POSITION 5. They will be sworn-in at the January 17th Board meeting. Congratulations to our continuing and new Board members!

For water emergencies during regular business hours, call **505-466-1085**

For water emergencies after hours and on holidays, call **505-780-0090**

INSIDE THIS ISSUE:

- System Management Updates for Nov. 2012 (2)
- News Briefs (2)

SPECIAL ISSUE: Status of EAWSD after 8 years by J. Cooper

EAWSD recently passed the 8th anniversary of acquiring and operating the water utility that serves the communities in the Eldorado area. Upon acquisition on December 1, 2004, there were a limited number of EAWSD personnel (mostly volunteers), very little money, and many "unknowns" regarding the utility system, its components, EAWSD's water rights, and even how much water was available. Through the persistent efforts of the EAWSD staff, Board of Directors, several contractors, and community volunteers, the situation has improved tremendously—perhaps not at the speed expected or hoped for, but improvement nevertheless. After eight years, the status, with some of the improvements, include:

1. Developed definitive knowledge of available water sources via Glorieta Geoscience, Inc.'s (consulting geohydrologists) assessments and reports in 2007 of the local hydrology, wells, and available groundwater:
 - Concluded that there is sufficient local groundwater to withdraw 600 acre-feet per year (afy) of water for at least 100 years, provided that production wells are replaced or added periodically.
 - The state-controlled groundwater is from four prime formations: a) unconsolidated basin fill near the surface, b) fractured Madera limestone, c) fractured preCambrian 'granite', and d) intermittent Galisteo Creek alluvium.
 - To produce sufficient water to meet demand requires proper operation and maintenance of the wells, including routine rehabilitation and/or replacement, and the periodic addition of new wells.
2. EAWSD's current water rights have been established at 783.4 afy for withdrawing groundwater via the Office of the State Engineer's licenses issued on June 4, 2010. The licenses also allow EAWSD to develop up to an additional 254.4 afy of water rights in the Central Well Field over the next 18 years if, and as, water demand and, thus, production increases.
3. For additional water production, two new wells have been drilled into the fractured 'granite', adding 298,000 gallons/day of sustained* production:
 - With the additions, total sustained production from all wells is currently 950,000 gal/day in 'wet'* years, with approximately 20% less in 'dry'* years. Annual production has averaged 545 afy (178 million gal/yr) for the 8 years, but has decreased below the average in the past 3 years to a range of 516-to-544 afy.
 - Production is seasonal, often doubling on hot summer days to 800,000-900,000 gal/day from wintertime levels and even exceeding 1 million gallons per day for a few days in summer.
 - Demand, including high demand days in the summertime of dry years, has been met by careful management of tank levels and pumping for more hours in a day than recommended for sustained operation. However, there is insufficient pumping capacity to operate at or below the sustained pumping-time guidelines on all high demand days in dry years and to maintain adequate summertime reserves for equipment failure or malfunction. Adding water production capacity is a high priority and has been limited by available resources.
 - With 250 - 300 ppm calcium and bicarbonate 'hardness', water quality has been relatively consistent, continuously meeting U.S. Environmental Protection Agency requirements, including trace metals, upon disinfection.
4. With conservation by ratepayers, including the effects of the tiered rate structure, water consumption by ratepayers has decreased by 5-15% from the 2005-2008 period to 145 - 170 million gal/yr in the past 3 years.
 - Currently, there are 2,940 connections to the system, with 98% residential and 2% commercial and public-authority (school, library, etc). There are no industrial connections.
 - Annual average consumption for all residential ratepayers during the recent FY2012 period was below 4,700 gal/mo per household and below 70 gallons-per-capita-per-day ("GPCD").
5. Since 2004, system deficiencies have been identified and have been or are being remedied. In addition to routine maintenance, Capital Improvement Projects (CIPs) have been implemented to correct many of the deficiencies, as resources have become available, including:

APP EX

Continued — SPECIAL ISSUE: *Status of EAWSD after 8 years*

- ♦ a) Drilling of the two new production wells with connection to the system; b) replacing 33% (to date) of the manual-read customer meters with automatic, drive-by radio-read meters; c) precisely locating and mapping of system components; d) upgrading of the remote system control and monitoring subsystem ("SCADA"); e) well rehabilitations and replacement of selected well pumps and motors; f) replacing or upgrading two of the booster pump stations; g) adding and replacing selected distribution pipelines; and h) adding facilities for workshops and equipment storage.
 - ♦ Other projects have included the assessment of hydrology and long-term availability of groundwater, cleaning of the storage tanks, and development of a utility Master Plan.
 - ♦ CIP expenditures have ranged from \$0.2 to 1.0 million per year. Total expenditures for CIPs and other projects have been \$3.4 million through FY2012. To date, EAWSD has received \$1.34 million in grants from the State Legislature and Water Trust Board and a \$1.4 million loan from the NM Finance Authority, which has been partially utilized to date. The balance has been funded from EAWSD revenues and property tax receipts.
 - ♦ Planned CIPs include adding water production, completing meter replacements, optimizing pressure zones, upgrading and adding booster pump stations and related pipelines, adding office facilities, improving mixing within storage tanks, and replacing older pipeline as needed.
6. As an 'enterprise agency', the District is responsible for all of its own revenues, expenses, and debt service, and also for maintaining adequate reserves.
- ♦ Revenues are primarily from water sales and related fees, currently at \$2.5 million/yr, with additional income of \$1.0 million/yr from property tax receipts (no change in levy of 3.36 mils for 8 years).
 - ♦ Operating expenses are currently at \$1.87 million/yr plus debt service of \$1.34 million/yr (principal and interest from two bonds and one loan). Debt service payments have been paid in full and on time during the 8-year period.
 - ♦ Reserves have been built up over the years and currently are at or near required levels, including Revenue Bond Escrow (\$0.5 million), Operating Reserves (\$0.6 million), and Capital Reserves for funding of CIPs and capital purchases (varies from \$0.1 to 1.0 million, depending on the year).
7. The utility's personnel requirements are fulfilled by two full-time employees (a General Manager and an Administrative Assistant) and six contractors.
- ♦ Operating under the Board of Directors, the General Manager manages the utility's daily operations via the services of a professional water utility operating contractor, CH2MHill-OMI, under a long-term Operations and Maintenance ("O&M") contract, including monthly meter reading and customer billing services.
 - ♦ Contractors furnish services as needed for project management, consulting engineering, financial, geohydrology, and legal requirements.
 - ♦ Total personnel currently utilized varies by need from 15 to

18 people. EAWSD has utilized experienced and professional contractors with good results, but continues to review the costs and benefits of hiring additional employees as an alternative to using professional and other contractual services.

In conclusion, as a community we have learned the true cost of owning our own utility. Operating, maintaining, repairing and replacing are everyday activities. Major strides have been made in improving and replacing our capital investment. Legal and technical issues regarding the availability of our water supply have been resolved. A much improved understanding of how the system functions has led to better use of resources and best management practices. While there is still much to do, we are confident that EAWSD is positioned well to address current and future needs of the community.

"Sustained" operation = Pumping for 60% of time, with rest and recovery for 40% of time; "Dry" years = Little or no runoff into the runoff-sensitive Galisteo Creek alluvium; "Wet" years = With sufficient runoff into the Galisteo Creek alluvium to allow pumping of the two wells when needed.

System Management Updates

November 2012 System Management Updates

10,346,000 gallons were pumped for the month of November from wells: 2, 7, 8, 14, 15, 17 and 18.

Work Order History for the Month of November 2012:

- ♦ **197** total service orders were completed.
 - 139 customer service work orders.
 - 58 system maintenance work orders.
- ♦ There was one (1) customer shut-off in November owing to payment delinquency.
- ♦ In the month of November, approximately **69** water samples were tested for chlorine, from multiple sites. All resulted in normal readings. Eight samples for Bac-T (fecal and e-coli tests) were sent to a State Certified Laboratory in Santa Fe and all were rated "Excellent."

Next Month in Water Notes:

- ♦ From the General Manager
- ♦ New Board Directors Sworn-in
- ♦ EAWSD FY2012 Financial Audit Complete
- ♦ Recent Board Activities
- ♦ System Updates for December 2012
- ♦ Conservation Corner
- ♦ Question of the Month
- ♦ News Briefs

Eldorado Area Water & Sanitation District

BOARD MEMBERS

James D. Jenkins, President
Jerry Cooper, Vice President
Stephen Wust, Secretary
Roberta A. Armstrong, Director
George Haddad, Director

NON-DIRECTOR

Gene Schofield, Treasurer

GENERAL MANAGER

David Chakroff

1 Caliente Road, Suite F, Santa Fe NM 87508
505-466-2411

EMAIL: info@EAWSD.org

WATER NOTES EDITOR

Anna Mondragon-Metzger
admin.assistant@EAWSD.org

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
ELDORADO AREA WATER AND SANITATION DISTRICT AND THE BOARD OF
COUNTY COMMISSIONERS OF SANTA FE COUNTY REGARDING MUTUAL
WATER SERVICES COOPERATION**

The Eldorado Area Water and Sanitation District, a political subdivision of the State of New Mexico ("District"), and the Board of County Commissioners of Santa Fe County, a political subdivision of the State of New Mexico ("County"), enter into this Memorandum of Understanding this 9th day of October, 2012.

RECITALS

WHEREAS, the District has rights and responsibilities specified by Law, specifically the Water and Sanitation District Act (NMSA 1978, Section 73-21-1 *et seq.*) and operates a water utility supplying water to its customers within the boundaries of the area served by the District, as shown on Exhibit "A" attached hereto and incorporated herein by reference (the District's "Service Area");

WHEREAS, the County, through its Utility Division, operates a water utility whose principal source of supply is the Buckman Direct Diversion, a joint project of the County and the City of Santa Fe;

WHEREAS, the County, through its Land Use Division, administers the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan (SGMP), and the Santa Fe County Land Development Code (LDC);

WHEREAS, the County and the District share a number of important shared goals, including providing safe water to citizens, providing fire protection, sponsoring water conservation and reuse practices, and providing healthy wastewater management;

WHEREAS, consistent with these shared goals, the County, through its Utility Division, is willing to assist the District from time to time to improve the reliability of the District's system in times of drought or mechanical failure or as otherwise agreed to by the parties by providing access to water supplies from the Buckman Direct Diversion or from any other sources;

WHEREAS, the County's statutory duty through the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code is to assure that proposed development within the County is consistent with statutory requirements and with the LDC, and specifically to assure that a 99-year water supply exists for any proposed development within the County's land use jurisdiction;

WHEREAS, the County acknowledges that the District's sources of water supply are more than adequate at the present time to serve its customers, and also acknowledges Partial Licenses No. RG-18529 and 18556 issued by the Office of the State Engineer and the acknowledgement in those Licenses that the District has available to it 783.43 acre feet per year of water rights with which to supply customers, and further acknowledges that the County's

water experts have thoroughly reviewed the District's sources of supply in connection with recent applications to develop property and have agreed with the District that more than adequate water resources currently exist to serve existing customers and to serve new developments within the District's service area;

WHEREAS, from time to time, disagreements have arisen between the County and the District concerning the District's inherent authority under the Water and Sanitation District Act and the County's functions under the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code, and it is desirable that the County and District work to reduce conflicts in the future in a way that is consistent with the County's statutory obligations, but in a way that fully respects the District's status as a political subdivision of the State and an independent public utility accountable to the voters;

WHEREAS, a constructive way to assure progress on all of these objectives is for the County to agree that the District has provided sufficient present information concerning the District's water supply to justify the County's acceptance of a 'will serve' letter from the District that the District is ready, willing and able to provide a customer with water service as adequate for purposes of the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code for a minimum of three (3) years, and for the County and the District to agree to work towards providing the District with water from the Buckman Direct Diversion project or other sources as available to assist the District in times of drought or mechanical failure or as otherwise agreed by the parties;

WHEREAS, the parties find that it is in their mutual best interest to avoid misunderstanding and disagreement over the areas to be served by each party, and wish to define a mechanism for deciding whether potential customers outside of the District's current Service Area boundaries will be served by the District or the County;

WHEREAS, the County and District are amenable to making such an agreement and to agreeing to work towards a stronger relationship in subsequent agreements so that these and other issues vital to the health, safety and welfare of the community are effectively addressed.

IT IS THEREFORE UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. The County recognizes and understands that the District is a Water and Sanitation District duly organized and existing under the Water and Sanitation District Act, with all the powers, authorities, rights and responsibilities specified therein, and the County recognizes the right of the District under the Water and Sanitation District Act to supply water to existing and new customers and to supply new development within its Service Area boundaries. The County agrees that it will not extend its water facilities into the District's Service Area without the prior written approval of the District.
2. With respect to the previous paragraph, the parties recognize that the County has statutory responsibilities with respect to such new development within the District's

ATTEST:

Valerie Espinoza by VT

Valerie Espinoza, County Clerk

Approved as to form:

[Signature]

Stephen C. Ross, County Attorney



**THE BOARD OF DIRECTORS OF
THE EL Dorado WATER AND SANITATION DISTRICT**

By: *[Signature]* 9-7-12
James Jenkins, EAWSD Board President Date

ATTEST:

[Signature]

Stephen Wust, Ph.D., EAWSD Board Secretary

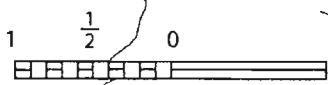
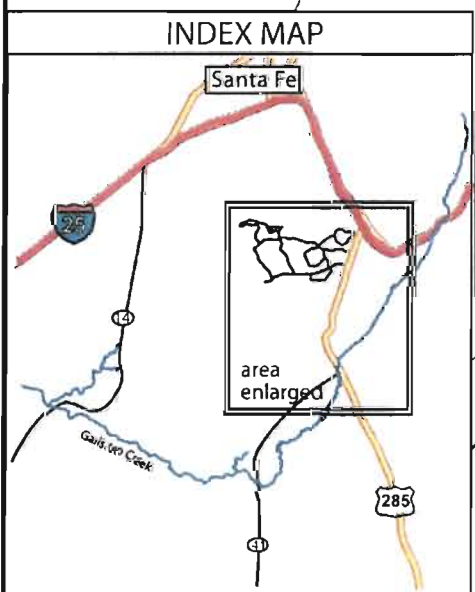
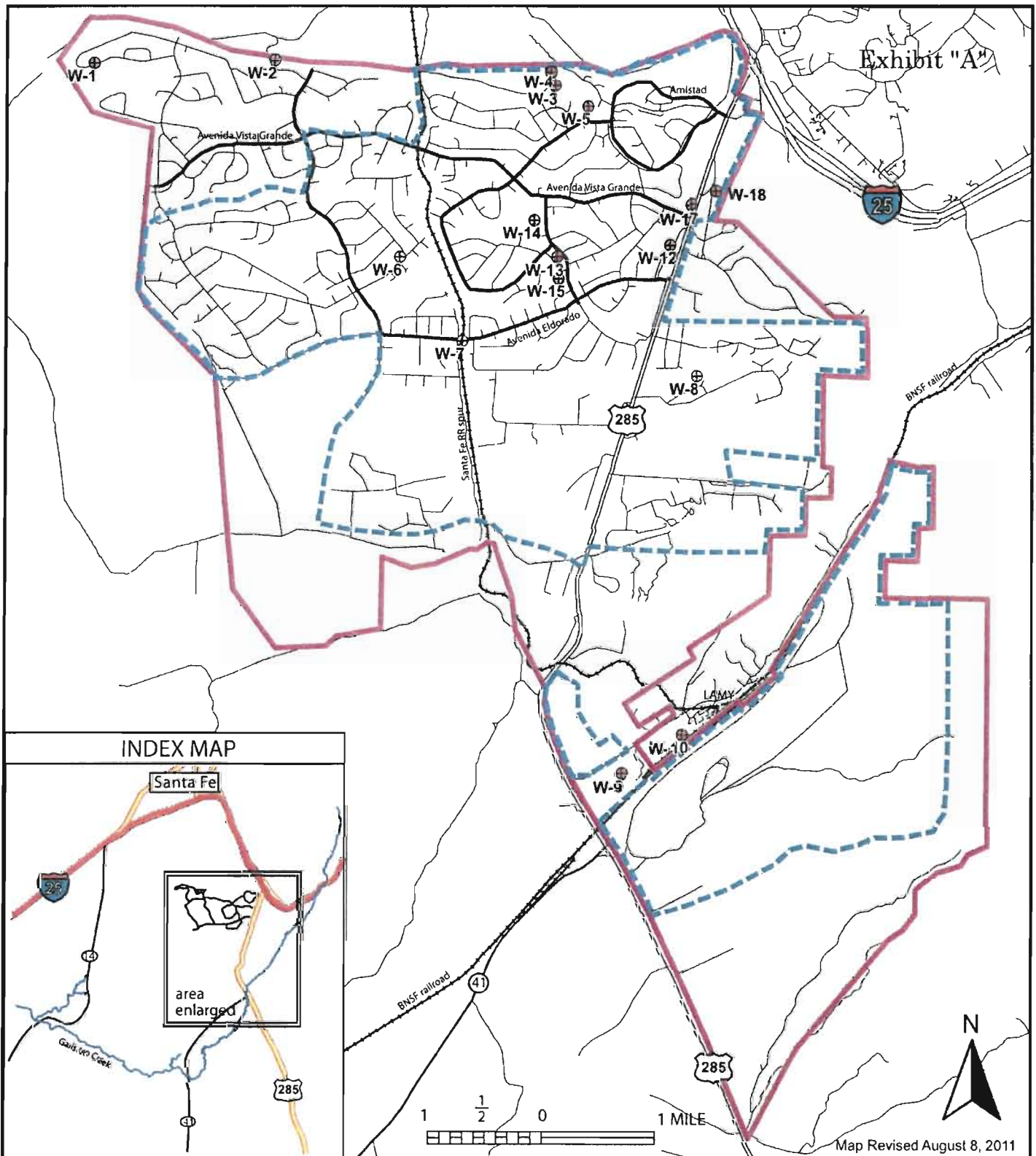
Approved as to form:

[Signature]

Catherine Robinson, EAWSD Board Attorney




SFC CLERK RECORDED 03/05/2013

Exhibit "A"




Map Revised August 8, 2011

LEGEND

- W-1  EAWSD Wells (with well numbers)
-  Boundary of EAWSD Service Area as of September 2010
-  EAWSD District Boundary as of September 2010

GLORIETA GEOSCIENCE, INC.
 P.O. Box 5727 Santa Fe, NM 87502
 (505) 983-5446 Fax (505) 983-6482
 www.glorietagen.com





STATE OF NEW MEXICO)
)
 OFFICE OF THE STATE ENGINEER)

PARTIAL LICENSE

Licenses Nos. RG-18529 & RG-18556 Refers to OSE Permit Nos. RG 18528, RG 18529, RG 18543, RG 18550, RG 18515, RG 18571, RG 18595, RG 18531, RG 18517, RG-18556, RG-18524, RG 18529-S, (RG 18528, RG 18543, RG 18550)-S, (RG 18528, RG 18529, RG 18543, RG 18550, RG 18515, RG 18571, RG 18595, RG 18531)-S, (RG 18528, RG 18529, RG 18543, RG 18550, RG 18515, RG 18571, RG 18595, RG 18531, RG 18517)-S

FILED RECORDED 03/05/2013

FINDINGS

The State Engineer finds the following:

WHEREAS, prior to December 31, 1970, Eldorado at Santa Fe, Inc. had underway a program of drilling for exploration and/or production of underground water for subdivision and related purposes.

WHEREAS, on December 31, 1970, the New Mexico State Engineer issued Special Order No. 113, extending the boundaries of the Rio Grande Underground Water Basin to include the Eldorado at Santa Fe, Inc. subdivision.

WHEREAS, on March 9, 1971, Eldorado at Santa Fe, Inc. filed eighty-four (84) Declarations of Underground Ownership Rights with Office of the State Engineer declaring the following claims to water rights:

<u>OSE File No.</u>	<u>Priority Date</u>	<u>Capacity GPM</u>	<u>Acre-feet Year Claimed</u>
RG-18512	Pre-1969	3	4.8
RG-18513	Pre-1969	8	12.9
RG-18514	Pre-1969	3	4.8
RG-18515	Pre-1969	18	29.0
RG-18516	Pre-1969	4.5	7.2
RG-18517	Pre-1969	15	24.2

App. EX 3

RG-18518	Pre-1969	3	4.8
RG-18519	Pre-1969	3	4.8
RG-18520	Pre-1969	8	12.9
RG-18521	Pre-1969	3	4.8
RG-18522	Pre-1969	3	4.8
RG-18523	Pre-1969	3	4.8
RG-18524	Pre-1969	3	4.8
RG-18525	Pre-1969	3	4.8
RG-18526	Pre-1969	3	4.8
RG-18527	Pre-1969	3	4.8
RG-18528	12-26-1969	94	151.3
RG-18529	12-26-1969	190	305.9
RG-18530	12-26-1969	3	4.8
RG-18531	03-11-1970	120	193.2
RG-18532	03-12-1970	50	80.5
RG-18533	03-18-1970	50	80.5
RG-18534	03-18-1970	50	80.5
RG-18535	03-19-1970	50	80.5
RG-18536	03-24-1970	50	80.5
RG-18537	03-31-1970	200	322.0
RG-18538	04-08-1970	200	322.0
RG-18539	04-10-1970	200	322.0
RG-18540	04-17-1970	3	4.8
RG-18541	04-18-1970	15	24.2
RG-18542	04-27-1970	8	12.9
RG-18543	04-30-1970	51	82.1
RG-18544	05-03-1970	100	161.0
RG-18545	05-04-1970	100	161.0
RG-18546	05-12-1970	50	80.5
RG-18547	05-13-1970	100	161.0
RG-18548	05-15-1970	100	161.0
RG-18549	05-26-1970	50	80.5
RG-18550	06-05-1970	51	82.1
RG-18551	06-15-1970	5	8.1
RG-18552	06-17-1970	5	8.1
RG-18553	06-19-1970	100	161.0
RG-18554	06-24-1970	100	161.0
RG-18555	06-29-1970	5	8.1
RG-18556	07-01-1970	500	805.0
RG-18557	07-07-1970	5	8.1
RG-18558	07-08-1970	250	402.5
RG-18559	10-02-1970	20	32.2
RG-18560	10-05-1970	20	32.2
RG-18561	10-06-1970	25	40.2
RG-18562	10-06-1970	15	24.2
RG-18563	10-07-1970	15	24.2

RG-18564	10-08-1970	15	24.2
RG-18565	10-09-1970	50	80.5
RG-18566	10-09-1970	15	24.2
RG-18567	10-12-1970	17	27.4
RG-18568	10-17-1970	14	22.5
RG-18569	10-22-1970	15	24.2
RG-18570	10-26-1970	6	9.7
RG-18571	10-29-1970	400	644.0
RG-18572	11-02-1970	99	159.4
RG-18573	11-05-1970	15	24.2
RG-18574	11-09-1970	15	24.2
RG-18575	11-26-1970	75	120.8
RG-18576	11-26-1970	75	120.8
RG-18577	11-26-1970	75	120.8
RG-18578	11-26-1970	75	120.8
RG-18579	11-27-1970	75	120.8
RG-18580	11-27-1970	75	120.8
RG-18581	11-27-1970	75	120.8
RG-18582	11-27-1970	75	120.8
RG-18583	11-30-1970	15	24.2
RG-18584	11-30-1970	15	24.2
RG-18585	12-01-1970	25	40.2
RG-18586	12-01-1970	25	40.2
RG-18587	12-02-1970	15	24.2
RG-18588	12-04-1970	300	483.0
RG-18589	12-04-1970	25	40.2
RG-18590	12-04-1970	15	24.2
RG-18591	12-08-1970	15	24.2
RG-18592	12-08-1970	25	40.2
RG-18593	12-08-1970	15	24.2
RG-18594	12-10-1970	25	40.2
RG-18595	12-17-1970	400	644.0

WHEREAS, on December 20, 1972, the State of New Mexico filed a complaint in the First Judicial District Court requesting that the Court "declare and determine the nature and extent of the rights, if any, of Eldorado at Santa Fe, Inc. to complete development and/or to divert and use the public waters of the Rio Grande Underground Water Basin." *State of New Mexico, ex rel., S.E. Reynolds, State Engineer and Eldorado at Santa Fe, Inc.*, Santa Fe County Cause No. 45612.

WHEREAS, on December 29, 1972 a Judgment was entered in the First Judicial District Court approving the stipulation between the State of New Mexico and Eldorado at Santa Fe, Inc., *Id.* ("1972 Judgment") whereby the following limitations were placed on the above declared water rights:

1. Eldorado at Santa Fe, Inc.... divert the underground water of the Rio Grande Underground Water Basin and apply them to beneficial use of domestic, municipal, construction and recreation purposes, by means of wells numbered RG-18528, RG-18529, RG-18543, and RG-18550, to the capacity of those wells as completed before December 31, 1970. ("Paragraph One Wells")

2. Eldorado at Santa Fe, Inc., has the right to complete the repair, rehabilitation and conversion of, but not to deepen or enlarge, those wells numbered consecutively from RG-18512 to and including RG-18527 and to divert the water of the Rio Grande Underground Water Basin therefrom, and to apply said water to beneficial use for domestic, municipal, industrial, recreational and construction purposes within a reasonable time, to the capacity those wells had on or before December 31, 1970. ("Paragraph Two Wells")

3. Eldorado at Santa Fe, Inc., may enlarge but may not deepen wells numbered RG-18531, RG-18556, RG-18561, RG-18563, RG-18567, RG-18568, RG-18570, RG-18571, RG-18572, RG-18591, RG-18594, and RG-18595; Eldorado at Santa Fe, Inc., may divert and place to beneficial use for domestic, municipal, industrial, recreation and construction purposes within a reasonable time, by means of said wells, the water Rio Grande Underground Water Basin, to the extent of the capacity of those wells as enlarged and equipped. ("Paragraph Three and Four Wells")

4. Eldorado at Santa Fe, Inc., may not change, partially or totally, the point of diversion or place or purpose of use of wells numbered RG-18531, RG-18556, RG-18561, RG-18563, RG-18567, RG-18568, RG-18570, RG-18571, RG-18572, RG-18591, RG-18594, and RG-18595 by means of replacement or supplemental wells except when and to the extent that the rights to said water rights have then been vested by actual beneficial use. ("Paragraph Three and Four Wells")

5. Eldorado at Santa Fe, Inc., does not own the right to use, develop or improve any holes or wells at Eldorado at Santa Fe, except as expressly decreed herein or as may be allowed by permit from the State Engineer. In particular, Eldorado at Santa Fe, Inc., does not own the right to use, develop or improve those holes or wells numbered RG-18530, RG-18532

through RG-18542; RG-18544 through RG-18549; RG-18552 through RG-18555; RG-18557 through RG-18560; RG-18562; RG-18564 through RG-18566; RG-18569, RG-18573, RG-18575 through RG-18590; and RG-18593. ("Paragraph Five Wells")

WHEREAS, on February 17, 1978, a Change of Ownership of Water Right was filed with the State Engineer conveying all of the water rights owned by Eldorado at Santa Fe, Inc. to El Dorado Utilities, Inc ("EUI").

WHEREAS, on May 11, 1983 an Application for Permit to Change Location of Well RG-18556 was filed with the State Engineer. On July 21, 1983 the application was conditionally approved by the State Engineer. The Galisteo Domestic Water Users Association sought and was granted a writ of certiorari in the First Judicial District Court for review of the State Engineer's action conditionally approving the change of location of well RG-18556. On December 14, 1988 the District Court voided the action of the State Engineer and remanded the matter to the State Engineer for new proceedings on the original application. *Galisteo Domestic Water Users Assn. v. Reynolds*, Santa Fe County Cause No. SF-86-473(c) (Dec. 14, 1988). On October 11, 1991 the New Mexico Court of Appeals affirmed the District Court's order of December 14, 1988. *Eldorado at Santa Fe, Inc. v. Cook*, 113 N.M. 33, 822 P.2d 672 (Ct. App. 1992). On December 16, 1992 the State Engineer entered an order denying the 1983 application for change of location of well. EUI was aggrieved by the State Engineer's denial and requested a hearing with the State Engineer. After a formal hearing, the Hearing Examiner entered a report and the State Engineer accepted the findings recommending the denial of the application to change point of diversion on September 8, 1993. On October 14, 1993 EUI filed an appeal from the State Engineer's decision with the First Judicial District. The District Court dismissed the appeal on March 24, 1994. On April 22, 1994 EUI appealed the

District Court's decision. The New Mexico Court of Appeals reversed and remanded the matter to the District Court on May 11, 1995. *El Dorado Utilities, Inc. v. Galisteo Domestic Water Users Association and New Mexico State Engineer*, 120 N.M. 165, 899 P. 2d 608 (Ct. App. 1995). On April 10, 1997 the District Court denied EUI's application to change location of well RG-18556 ordering that EUI shall cease and desist the diversion and use of ground water from the "move-to" location of well RG-18556 after sixty (60) days and that EUI is permanently enjoined from diverting ground water from and otherwise using the "move-to" location except as may be allowed by a permit issued by the State Engineer.

WHEREAS, on June 26, 1997, EUI filed Amended Declarations of Underground Water Rights for RG-18523 and RG-18524 amending the originally declared capacity of both wells from 4.8 acre-feet per year to 242 acre-feet per year each. The Amended Declarations were not accepted for filing by the State Engineer. EUI requested a hearing before the State Engineer. The State Engineer determined that he had the discretion to refuse to accept the amended declarations. EUI filed an appeal from the State Engineer's decision on November 9, 2000 in the First Judicial District Court. *In Re Eldorado Utilities Inc.*, D-101-CV-2002668 (Nov. 9, 2000). On October 6, 2003 the District Court entered a judgment affirming that the State Engineer acted within his discretion in refusing to accept the 1997 amended declarations for filing. EUI appealed this decision, and on February 23, 2005 the New Mexico Court of Appeals affirmed that the District Court did not err when it determined that the State Engineer had the authority to refuse to accept the 1997 amended declarations.

WHEREAS, on March 28, 1996 EUI filed an application for a permit to use emergency supplemental well RG-62602 Explore to supplement RG-18529 (RG-18529-S). The State Engineer partially approved this application on November 18, 1996. On January 22, 1997 the State Engineer amended his November 18, 1996 order. The November 18, 1996 order was set-aside on February 28, 1997 following the timely aggrieval of EUI. On August 30, 2001 the State Engineer re-instated permit RG-18529-S for the supplemental amount not to exceed 305.9 acre-feet per year from wells RG-18529 and RG-18529-S, combined.

WHEREAS, on March 5, 1999 EUI filed an application to supplement wells RG-18528, RG-18543, RG-18550 with RG-65707 exploratory-1. Supplemental well permit (RG-18528, RG-18543, RG-18550)-S was issued on July 1, 1999 limited to the diversion of water applied to beneficial use not to exceed 111.07 acre-feet per year combined.

WHEREAS, on April 10, 2000 EUI filed an application to supplement wells RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531. The permit for the use of supplemental well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S was issued on June 4, 2001, and amended on August 30, 2001. The permit allows for the supplemental right to divert and use ground water not to exceed diversions from the individual wells for the following amounts:

RG-18528	151.3 acre-feet per year
RG-18529	305.9 acre-feet per year
RG-18543	82.1 acre-feet per year
RG-18550	82.1 acre-feet per year
RG-18515	13.7 acre-feet per year
RG-18531	26.7 acre-feet per year
RG-18571	37.8 acre-feet per year
RG-18595	81.1 acre-feet per year

WHEREAS, In 2005, all of EUI's assets, including all water rights, were acquired by the Eldorado Area Water and Sanitation District ("EAWSD") through condemnation in *Eldorado Area Water and Sanitation District v. El Dorado Utilities, Inc.*, Case No. D-101-CV-200400276. EAWSD is successor in interest to EUI.

WHEREAS, On March 13, 2007 EAWSD filed an application for a permit to drill a supplemental well to supplement well Nos. RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531, and RG-18517. The State Engineer permitted the right to divert from this well not to exceed 115 acre-feet per year on April 27, 2010.

WHEREAS, EAWSD utilizes two distinct sources of underground water to supply its integrated water system. Wells RG-18524 and RG-18556 ("Galisteo Creek Wells") produce water from the buried alluvium beneath the Galisteo Creek. This alluvium is connected to stream flow within the Galisteo Creek. Wells RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531, and RG-18517 ("Central Well Field") produce water from the Santa Fe Group and older bedrock formations. The wells in the Central Well Field are located north of the escarpment overlooking the Galisteo Creek Valley, and south of Interstate 25, as described in the corresponding declarations and permits.

WHEREAS, pursuant to the 1972 Judgment, permits and other court orders, EAWSD has the recognized right to divert underground water not to exceed the following amounts:

Central Well Field

RG-18515 24.0 acre-feet per year

RG-18517	17.4 acre-feet per year
RG-18528	151.3 acre-feet per year
RG-18529	305.9 acre-feet per year
RG-18531	46.9 acre-feet per year
RG-18543	82.1 acre-feet per year
RG-18550	82.1 acre-feet per year
RG-18571	45.7 acre-feet per year
RG-18595	82.0 acre-feet per year

Total 837.4 acre-feet per year

Galisteo Creek Wells

RG-18524	4.8 acre-feet per year
RG-18556	195.4 acre-feet per year

Total 200.2 acre-feet per year

Total EAWSD Water Rights 1037.6 acre-feet per year

Pursuant to the laws of New Mexico and the conditions of the court orders and permits pertaining to each well.

WHEREAS, EAWSD, and its predecessors in interest have applied water to beneficial use within the integrated water delivery system and has filed a Proof of Application of Water to Beneficial Use, based upon actual meter readings, to the following extent:

Central Well Field

RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531, RG-18517, RG-18529-S, and (RG-18528, RG-18543, RG-18550)-S, (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531) - S

Total 583.23 acre-feet in 2003

Galisteo Creek Wells

RG-18524 and RG-18556, combined

Total 200.20 acre-feet in 2005

Total EAWSD Wells

Total 783.43 acre-feet per year

WHEREAS, in order to minimize future litigation and to conserve the resources of all interested entities, the partial license seeks to reflect the extent of existing water rights and rights to further develop ground water rights of EAWSD consistent with the 1972 Judgment in light of current legal, factual and scientific conditions.

WHEREAS, the purpose of this partial license is to provide certainty for EAWSD's water resource future as to how it may develop the 1972 Judgment acknowledged ground water rights, so as to minimize, if not reduce, the impacts on flows of the Galisteo Creek, and to set forth the existing points of diversion, amounts of water, conditions on such uses as well, amounts of water, and conditions on such development.

LICENSE Nos. RG-18529 and RG-18556¹

NOW, THEREFORE, I, John D'Antonio, Jr., P.E., New Mexico State Engineer, by virtue of the authority vested in me by the laws of said State, do hereby grant to Eldorado Area Water and Sanitation District, 1 Caliente Road, Suite F, Santa Fe, State of New Mexico, License Nos. RG-18529 and RG-18556 to appropriate underground water.

License No. RG-18529: Central Well Field

1. Amount of Water: 583.23 acre-feet per year, combined, provided that the maximum amount of water diverted from each individual point of diversion listed below shall not exceed:

<u>RG-18515</u>	24.0 acre-feet per year
<u>RG-18517</u>	17.4 acre-feet per year
<u>RG-18528</u>	151.3 acre-feet per year

¹ The name for this License was chosen for ease of reference and shall not be construed to mean that EAWSD Well Nos. RG-18529 or RG-18556 must be active wells in order for this License to have effect.

<u>RG-18529</u>	305.9 acre-feet per year
<u>RG-18531</u>	46.9 acre-feet per year
<u>RG-18543</u>	82.1 acre-feet per year
<u>RG-18550</u>	82.1 acre-feet per year
<u>RG-18571</u>	45.7 acre-feet per year
<u>RG-18595</u>	82.0 acre-feet per year

RG-18529-S 305.9 acre-feet per year combined from RG-18529 and RG-18529-S

(RG-18528, RG-18543, RG-18550)-S 111.07 acre-feet per year as follows:

- A. The diversion of water from well No. (RG-18528, RG-18543, RG-18550)-S to supplement well No. RG-18543 shall not exceed the difference between 65.344 acre-feet per year and the actual annual diversion amount from well No. RG-18528.
 - B. The diversion of water from well No. (RG-18528, RG-18543, RG-18550)-S to supplement well No. RG-18543 shall not exceed the difference between 15.39 acre-feet per year and the actual annual diversion amount from well No. RG-18543.
 - C. The diversion of water from well No. (RG-18528, RG-18543, RG-18550)-S to supplement well No. RG-18550 shall not exceed the difference between 30.336 acre-feet per year and the actual annual diversion amount from well No. 18550.
- In no event shall the total diversion of water from well No. (RG-18528, RG-18543, RG-18550)-S exceed 111.07 acre-feet per year.

(RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S 780.7 acre-feet per year as follows:

- A. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. (RG-18528, RG-18543, RG-18550)-S and well No. RG-18528, combined, shall not exceed 151.3 acre-feet per year.
- B. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. RG-18529-S, and well No. RG-18529, combined, shall not exceed 305.9 acre-feet per year.
- C. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. (RG-18528, RG-18543, RG-18550)-S and well No. RG-18543, combined, shall not exceed 82.1 acre-feet per year.
- D. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. (RG-18528, RG-18543, RG-18550)-S and well No. (RG-18528, RG-18543, RG-18550)-S and well No. RG-18550, combined, shall not exceed 82.1 acre-feet per year.

- E. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. RG-18515, combined, shall not exceed 13.7 acre-feet per year.
- F. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. RG-18531, combined, shall not exceed 26.7 acre-feet per year.
- G. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. RG-18571, combined, shall not exceed 37.8 acre-feet per year.
- H. The diversion of water from well No. (RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531)-S and well No. RG-18595, combined, shall not exceed 81.1 acre-feet per year.

(RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595, RG-18531, RG-18517) - S 115 acre-feet per year

2. **Priority Date:** declared initiation of claim to a water right:

RG-18515	December 31, 1968
RG-18517	December 31, 1968
RG-18528	December 26, 1969
RG-18529	December 26, 1969
RG-18531	March 11, 1970
RG-18543	April 30, 1970
RG-18550	June 5, 1970
RG-18571	October 29, 1970
RG-18595	December 17, 1970

3. **Points of Diversion:**

OSE Well No.	X	Y
RG-18515	1,744,033.52	1,655,457.13
RG-18517	1,747,643.034	1,649,614.646
RG-18528	1,722,808.653	1,656,995.242
RG-18529	1,730,509.193	1,657,197.583
RG-18531	1,748,859.277	1,644,027.293
RG-18543	1,742,583.229	1,656,271.569
RG-18550	1,742,393.982	1,656,859.856
RG-18571	1,736,030.755	1,648,956.374
RG-18595	1,738,760.094	1,645,503.057
RG-18529-S	1,742,774.701	1,649,054.443
(RG-18528, RG-18543, RG-18550)-S	1,741,781.056	1,650,636.692
(RG-18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571 RG-18595, RG-18531)-S	1,742,867.970	1,648,148.818

(RG-18528, RG-18529, RG-18543,
RG-18550, RG-18515, RG-18571
RG-18595, RG-18531, RG-18517)-S 1,748,419.320 1,651,334.069

Well Coordinates are New Mexico State Plane Grid Coordinate Central Zone, NAD, 1983 and are expressed in feet. Consistent with applicable law, EAWSD may construct additional points of diversion to divert the water identified in this license through the application and permit process.

4. **Place of Use:** The place of use shall be the service area of EAWSD, as shown on "plat of acreage reparcelization" at Eldorado at Santa Fe, comprising portions of Canada de Los Alamos and Bishop John Lamy Grants, Recorded October 15, 1981, under reception No. 486,453, Book 107, Plat Page 6-6C, Records of Santa Fe County, New Mexico. Attached as Exhibit I

5. **Purpose of Use:** Domestic, Commercial, Industrial, Recreational and Construction.

Same to be used as above stated and can be changed only as provided by law, and provided that any future additional points of diversion constructed to divert water under this license shall not be exercised to the impairment of any other person having existing rights to the public waters of the State of New Mexico, or contrary to the conservation of water, or contrary to public welfare.

6. **Diversion of water from all wells shall each be metered with a totalizing meter(s), of a type and at a location approved by, and acceptable to the State Engineer. EAWSD shall provide the make, model, serial number, initial reading, units, multiplier, and the dates of installation and any calibration of the meter(s) to the State Engineer.**

7. Records of the total amount of water diverted from all wells shall be submitted to the District VI Office of the State Engineer, in writing, on or before the 10th day of each month for the preceding calendar month.
8. EAWSD shall utilize the highest and best technology available to ensure conservation of water to maximum extent practical.
9. EAWSD shall comply with requirements of the Monitoring Well Network and Groundwater Monitoring Plan, Eldorado Area Water and Sanitation District as approved by the State Engineer, attached as Exhibit 2, and any requirements contained in amended monitoring plans approved by the State Engineer.
10. The State Engineer shall retain jurisdiction over this license for the purpose of ensuring that the exercise of the license does not violate the foregoing conditions.

License No. RG-18556 : Galisteo Creek Wells

1. **Amount of Water:** 200.20 acre-feet per year, combined, provided that the maximum amount of water diverted from each individual point of diversion listed below shall not exceed:

RG-18524	4.8 acre-feet per year
RG-18556	195.4 acre-feet per year

2. **Priority Date:** declared initiation of claim to a water right:

RG-18524	December 31, 1968
RG-18556	July 1, 1970

3. **Points of Diversion:**

<u>OSE Well No.</u>	<u>X</u>	<u>Y</u>
RG-18524	1,748,393.685	1,628,753.373
RG-18556	1,745,852.741	1,627,108.831

Well Coordinates are New Mexico State Plane Grid Coordinate Central Zone, NAD, 1983 and are expressed in feet. Consistent with applicable law, EAWSD may construct additional points of diversion to divert the water identified in this license through the application and permit process.

4. **Place of Use:** The place of use shall be the service area of EAWSD, as shown on "plat of acreage reparcelization" at Eldorado at Santa Fe, comprising portions of Canada de Los Alamos and Bishop John Lamy Grants, Recorded October 15, 1981, under reception No. 486,453, Book 107, Plat Page 6-6C, Records of Santa Fe County, New Mexico. *See Exhibit I*

5. **Purpose of Use:** Domestic, Commercial, Industrial, Recreational and Construction.

Same to be used as above stated and can be changed only as provided by law, and provided that any future additional points of diversion constructed to divert water under this license shall not be exercised to the impairment of any other person having existing rights to the public waters of the State of New Mexico, or contrary to the conservation of water, or contrary to public welfare.

6. Diversion of water from all wells shall each be metered with a totalizing meter(s), of a type and at a location approved by, and acceptable to the State Engineer. EAWSD shall provide the make, model, serial number, initial reading, units, multiplier, and the dates of installation and any calibration of the meter(s) to the State Engineer.
7. Records of the total amount of water diverted from all wells shall be submitted to the District VI Office of the State Engineer, in writing, on or before the 10th day of each month for the preceding calendar month.
8. EAWSD shall utilize the highest and best technology available to ensure conservation of water to maximum extent practical.
9. The State Engineer shall retain jurisdiction over this license for the purpose of ensuring that the exercise of the license does not violate the foregoing conditions.

Additional Points of Diversion

EAWSD may construct additional points of diversion to divert the water identified in License Nos. 18529 and 18556 ("Licenses") through the application and permit process consistent with applicable law. Pumping from additional points of

diversion cannot increase the overall depletions caused by EAWSD's current pumping on the Galisteo Creek.

**Remaining Appropriative Rights in the Central Well Field
under the 1972 Judgment**

The appropriative water rights related to the wells specified in Paragraph One of the 1972 Judgment, RG-18528, RG-18529, RG-18543 and RG-18550 in the Central Well Field, that have not been licensed above, shall not exceed 254.37 acre-feet per year in addition to the amount of water under License No. RG-18529, described above. EAWSD has a period of twenty (20) years to perfect, by application to beneficial use within the EAWSD service area and delivered through the EAWSD integrated delivery system, 254.37 acre-feet per year of water rights within the Rio Grande Underground Water Basin from wells RG-18528, RG-18529, RG-18543, RG-18550 and permitted additional points of diversions to the water rights associated with wells RG-18528, RG-18529, RG-18543, RG-18550 in the Central Well Field. One-half of this amount, or 127.185 acre-feet per year, must be put to beneficial use within the first 10-year period and the other one-half, or 127.185 acre-feet per year, must be put to beneficial use within the next 10-year period from the date License No. RG-18529 is issued ("Development Schedule"). If the full amount allocated for development during either 10-year period is not put to beneficial use, the unused portion will be lost.² No requests for extension of time in which to perfect these water rights will be considered on either allocation. This

² For example, if EAWSD puts 89.185 acre-feet per year to beneficial use out of the allocation for the first 10-year period (127.185 acre-feet per year), the right for the total 20-year period will be reduced by 38 acre-feet per year. In this example, the total right remaining for use during the second 10-year period will be 127.185 acre-feet per year (new allocation) plus 89.185 acre-feet per year (perfected 1st 10-year allocation).

Development Schedule does not prevent EAWSD from perfecting the entire, or less than the, 254.37 acre-feet allocation in the first 10-year period.

EAWSD shall file with State Engineer its proof of beneficial use for the first 10-year period on or before January 31, 2021 and shall file with the State Engineer its proof of beneficial use for the second 10-year period on or before January 31, 2031. Once this process is complete, the State Engineer will issue a final license for EAWSD's entire water right. EAWSD shall install totalizing meters, of a type and at a location approved by, and acceptable to the State Engineer on every well.

If EAWSD severs, including leasing, any portion of the water rights licensed above or the water subject to the Development Schedule above, from the EAWSD service area or the EAWSD integrated delivery system or ownership of, EAWSD waives its right to further develop its appropriative rights under the 1972 Judgment as recognized under the Development Schedule. If EAWSD conveys the entire water utility, including the water rights, the right to develop water use subject to the Development Schedule will transfer subject to the terms of this partial license. EAWSD is forever barred from raising any claims to water rights subject to the 1972 Judgment that are not specifically referenced above.

Any increase in total diversion of water from the Central Well Field above 583.23 acre-feet per year shall be accomplished by utilizing additional points of diversion in the Central Well Field to the water rights associated with wells RG-18528, RG-18529, RG-18543, and RG-18550, and shall be done so by application to the State Engineer. The cumulative amount of water placed to beneficial use with water diverted from wells in the Central Well Field, including future additional points of diversion, will be the

measurement by which development rights are accounted for under the Development Schedule. Applications for additional points of diversion shall be made in a manner consistent with the laws of New Mexico at the time of application. Each application for an additional point of diversion in the Central Well Field must include characterization information and assessment of drawdown and stream depletions due to the proposed well diversion and the impact of drawdown on existing well completions, a summary and analysis of all water level data collected to date, and proposed approach for revision of the most current monitoring plan approved in accordance with License RG-18529 based upon actual tests and data collected from an exploratory well that is acceptable to the State Engineer.

Limitations to Combine and Commingle Water Rights

The State Engineer further finds that the EAWSD may combine and commingle water rights from the Galisteo Creek Wells and the Central Well Field as follows: at no time can EAWSD divert more than 200.20 acre-feet per year from the Galisteo Creek Wells. Diversions from the Central Well Field cannot exceed the quantity of water recognized under License RG-18529 plus the amount of water developed pursuant to the Development Schedule, without filing an application consistent with New Mexico law and obtaining a permit to do so from the State Engineer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 4th day of June 2010.



John R. D'Antonio, Jr.
John R. D'Antonio, Jr., P.E.
New Mexico State Engineer

