

June 14, 2007

Mr. Thomas F. Stewart
County Manager, Lincoln County
P.O. Box 711
Carrizozo, NM 88301-0711

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Re: Rainmakers Subdivision, Units Six, Seven, and Eight

Anticipated by Fax

Dear Mr. Stewart:

The Water Use & Conservation/Subdivision Review Bureau of the Office of the State Engineer has reviewed the referenced subdivision proposal pursuant to the Lincoln County Subdivision Ordinance, the New Mexico Subdivision Act and the OSE Rules and Regulations Governing the Appropriation and Use of Ground Water In New Mexico.

Based on the information provided, this office cannot determine that the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses, and that the subdivider can fulfill the proposals in his disclosure statement concerning water, excepting water quality. Accordingly, a **negative** opinion is issued.

A staff memorandum providing specific comments is attached for your information. If you have any questions, please call Jerry Keller at 505-827-3845.

Sincerely,

John W. Longworth, P.E.
Water Use & Conservation/Subdivision Review Bureau Chief

Encl.

cc: OSE Water Rights Division, Roswell Office

JK:jk

MEMORANDUM
New Mexico Office of the State Engineer
Water Use and Conservation Bureau

DATE: June 14, 2007

TO: John Longworth, P.E. Water Use & Conservation Bureau Chief

FROM: Jerry Keller, Senior Water Resource Specialist

SUBJECT: Rainmakers Subdivision, Units Six, Seven, and Eight in Lincoln County

SUMMARY

On May 18, 2007 the Office of the State Engineer (OSE) received a request to review the Preliminary Plat for Rainmakers, Units Six, Seven, and Eight, a Type-Two Subdivision. The proposal is a request to subdivide an 86.572-acre parcel into 60 single-family residential lots ranging in size from 0.379-acres to 1.379-acres each, 1 multi-family (12 dwelling units) lot containing 6.2 acres, a 0.874-acre park, and a 0.814-acre golf course maintenance lot. The proposed water supply is by CDS Rainmakers Utilities, LC. The property is located approximately 8.5 miles northeast of Ruidoso, within Sections 21 and 22, Township 10 South, Range 14 East, NMPM.

This office reviewed Rainmakers Phase One-Five in 2002 and 2003 and deferred offering a final opinion on the proposed subdivision until the outcome of the pending water right hearing was concluded. Subsequently, the protest was withdrawn and the OSE permit for applications H-1122-S-6 and H-1122-S-7 was issued on June 21, 2004.

The water supply documents submitted to this office consist of a Disclosure Statement, a Water Supply Plan, a Water Service Certification form CDS Rainmakers Utilities, LC, Declaration of Covenants, Conditions, and Restrictions, and a Plat Map.

The proposal was reviewed pursuant to the Lincoln County Subdivision Ordinance (Ordinance) and the New Mexico Subdivision Act (Act). The water supply proposal is not in compliance with the requirements of the Section 18-2-D of the Ordinance and Section 47-6-11 F (1) the Act. Accordingly, a **negative** opinion should be issued.

WATER DEMAND ANALYSIS AND WATER CONSERVATION

Section 18.2.A of the Regulations requires that the annual water requirement for both indoor and outdoor purposes, for each parcel in a residential subdivision shall be .25 acre-feet per year, unless a detailed water demand analysis approved by the Board of County Commissioners justifies the use of a different figure. Under Item R of the Disclosure Statement the subdivider specifies the average annual water use is 0.21 acre-feet per lot. An acceptable detailed water demand analysis was submitted with the Unit One-Five proposal.

Water conservation measures are included in Item DD of the Disclosure Statement and paragraph 26 and 27 of exhibit "1" of the Covenants, Conditions, and Restrictions. Natural vegetation and landscaping is mandatory. Grass area is restricted to 800 square feet and requires subterranean irrigation. An integrated rainwater collection system is required on each lot.

Strict enforcement of the water use restrictions will be required to ensure that the water budget is not exceeded.

Item S of the Disclosure Statement references golf course water use indicating that homes have first use priority. In case of a water shortage water will be supplied to homes and not the golf course. The golf course water use is not included in the water budget as required by Section 18-2-D of the Ordinance.

WATER AVAILABILITY ASSESSMENT

The proposed water supply for the subdivision is by CDS Rainmakers Utilities, LC. (Rainmakers). The proposal contains a Certification by Rainmakers indicating that the utility is willing and able to provide water service to the development as required by Section 17.2.B of the Regulations.

The ability of Rainmakers to provide water service to existing commitments and serve the additional requirements of Units One-Five was reviewed as part of the initial submittal in 2002 and 2003. The information presented demonstrated that the utility held sufficient water rights and was able to provide the estimated annual water requirements for 899 lot equivalents at 0.2088 acre-feet per annum plus fire flow requirements, additional commitments of 18.73 acre-feet, and a 10% line loss for a period in excess of 40-years.

The current proposal states that the existing service commitments have been reduced by 100 lot equivalents and service is available to serve the 72 equivalent lots (60 single-family and 12 condominium-type units) in the proposed subdivision. This results in a 28-lot reduction in service commitments.

Conclusions:

- **The proposal states that water service will not be provided to the park or wilderness easement; however, water service to the golf course maintenance lot is not discussed.**
- **Page 1, paragraph 5, of the Water Supply Plan indicates that Units Six, Seven, and Eight are using 74 of the 100 lots equivalents discussed above. The water system demand analysis indicates 72 lot equivalents are utilized. The apparent discrepancies should be rectified.**

- **The revised water supply system analysis does not include the golf course water use in calculating the system demand and available water service to the existing and proposed lots. Based on the statements in Item S of the Disclosure Statement, it appears that the golf course is supplied by the water system. The golf course water demand is not included in the water budget as required by Section 18-2-D of the Ordinance.**
- **The Water Supply Plan indicates that CDS Rainmakers is released from the obligation to provide water service to 51 existing lots within the Enchanted Valley Estates development. The Plan does not indicate an alternate source of supply for these lots.**