May 28, 2009

Mr. Jonathan Kesler
Planning and Development Department
Doña Ana County
845 N. Motel Blvd.
Las Cruces, NM 88001

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Re: Kilgore West Subdivision

Dear Mr. Kesler:

The Water Use & Conservation/Subdivision Review Bureau of the Office of the State Engineer has reviewed the referenced subdivision proposal pursuant to the Doña Ana County Subdivision Regulations and the New Mexico Subdivision Act.

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, Las Cruces Office

JK:jk

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

DATE: May 28, 2009
TO: John Longworth, P.E. Water Use & Conservation Bureau Chief
FROM: Jerry Keller, Senior Water Resource Specialist
SUBJECT: Kilgore West Subdivision in Doña Ana County

SUMMARY

On May 1, 2009 the Office of the State Engineer (OSE) received additional/revised information for the Preliminary Plat for Kilgore West, a Type Two Subdivision. The developer proposes to subdivide a 15.32-acre tract into 58 residential lots ranging in size from 0.326 acres to 0.145 acres. The water supply for the subdivision will be provided by the Berino Mutual Domestic Water Consumers Association. The property is located in Berino on the south side of Berino Road west of I-10, within Section 10, Township 26 South, Range 3 East, NMPM.

This office issued a negative opinion for this subdivision proposal on June 25, 2008 for the reason that the proposal was not in compliance with the requirements of Section 47-6-11 F (1) of the New Mexico Subdivision Act. Please see the previous letter for specific comments.

The revised water supply documents submitted to this office consist of a Disclosure Statement, Water Supply Plan, Declaration of Restrictive Covenants, and Plat Map.

The revised proposal was reviewed pursuant to the Doña Ana County Subdivision Regulations (Regulations) and the New Mexico Subdivision Act (Act). The water supply proposal is not in compliance with the requirements of Sections 14.3.2. (A) and 14.3.5 (A.2) of the Regulations and Section 47-6-11 F (1) of the Act. Accordingly, a **negative** opinion should be issued.

WATER DEMAND ANALYSIS AND WATER CONSERVATION

Under Item No. 17 of the Disclosure Statement, the subdivider has quantified the maximum annual water requirements of the subdivision as 0.75 acre-feet per lot in accordance with Section 14.3.2. (A) of the Regulations. The total annual water requirement for the subdivision in acre-feet per year is computed by multiplying the number of parcels by 0.75. Utilizing these criteria, the total maximum annual water demand for the subdivision is 43.5 acre-feet.

Water conservation measures are included under Item No. 17 of the Disclosure Statement. The subdivider states there are no limitations or restrictions other than the 0.75 acre-feet per year. However, the subdivider recommends the property owner install water saving plumbing fixtures. Outdoor conservation measures include restricting the total irrigated area to 800 square feet per lot. The 800 square feet may be planted in any combination of trees, shrubs, annuals and perennials, grasses, and garden. Grasses should be selected that are well adapted to local climatic conditions, and non-native grasses are discouraged. Low-water use landscaping techniques applying the principles of xeriscape shall be utilized. Drip irrigation is encouraged whenever

possible. Swimming pools, hot tubs, water fountains, and decorative ponds are discouraged. The proposal does not contain any method to ensure the water budget is not exceeded. The subdivider states, "No monitors are employed to restrict water use in the subdivision."

A detailed Water Demand Analysis is contained in the Water Supply Plan. The "Maximum Allowable Subdivision Water Use" per the analysis is 0.68 acre-feet per year per lot. Indoor use of 0.29 acre-feet is based on 85 gallons per capita per day and 3 persons per household. Outdoor use of 0.39 acre-feet is based on 3,000 acre-feet of sprinkler-irrigated grass. The total annual subdivision water demand including fire flow requirements and distribution system losses is 41.7 acre-feet.

The water conservation methods in the Water Supply Plan limit lawns to 25% of the lot area. The largest lot is 0.326 acres or 14,201 square feet, which will allow a lawn area in excess of 3,000 square feet.

The water quantities and landscape contradictions in the Disclosure Statement, the Water Demand Analysis, and the Water Supply Plan should be resolved. The water conservation measures and water use restrictions and recommendations should also be specified in the Covenants.

WATER AVAILABILITY ASSESSMENT

The proposal states that water will be supplied by the Berino Mutual Domestic Water Users Association. Documentation from the utility, as required by Section 14.3.5 (A.2) of the Regulations, stating that they are ready, willing, and able to provide the maximum annual water requirements for the subdivision was included in the previous submittal. The commitment was for water service to Kilgore West Subdivision, 57 lots, and Kilgore South Subdivision, 70 lots, for a total of 127 lots. Only Kilgore West is the subject of this review and consists of 58 lots.

The commitment to provide service contained several conditions. Condition number 10 required the subdivider "to acquire and transfer ownership of groundwater rights sufficient to serve the 127 lots." No documentation is included in the current proposal to verify that water rights have been transferred to satisfy this condition.

Condition No. 8 states that "this commitment becomes void six months from the date of this approval, if County approval for the subdivision has not been obtained by the Applicant within the six month period." The commitment letter is dated May 12, 2008 and is therefore considered void.