

December 12, 2007

Mr. Douglas W. Decker  
County Attorney  
McKinley County  
P.O. Box 70  
207 West Hill Avenue  
Gallup, New Mexico 87305-0070

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

**Re: Dine Estates Subdivision Phases II, III, IV, V and VI**

Dear Mr. Decker:

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

It is the opinion of this office that the subdivider's water supply proposal does not satisfy the requirements of the McKinley County Subdivision Regulations. Therefore, a **negative** opinion is hereby issued.

A staff memorandum providing the specific comments and recommendations is attached for your information. If you have any questions, please call Julie Valdez at 505-827-6790.

Sincerely,

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

Encl.

cc: OSE Water Rights Division, Albuquerque Office

**DATE:** December 12, 2007  
**TO:** John W. Longworth  
**FROM:** Julie Valdez  
**SUBJECT:** Dine Estates Phases II, III, IV, V & VI

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## **SUMMARY**

On November 26, 2007 the Office of the State Engineer received a request to review additional documentation for Dine Estates, a Type Two subdivision.

This office reviewed the original proposal on July 31, 2007, at which time information regarding water supply and water demand was insufficient. Therefore, a negative opinion was issued. Please refer to that letter for specific details.

The proposal is a request to subdivide an undisclosed acreage into 127 residential lots, with sizes ranging between 0.16 and 7.4 acres. The property is located approximately 5 miles northwest of Gallup and 1.5 miles northeast of Gamerco, within Sections 28 and 29, Township 16 North, Range 18 West, NMPM. The subdivider proposes to obtain water from Navajo Tribal Utility Authority.

The documentation submitted to this office consists of an updated Disclosure Statement, Deed Restrictions and a Water Service Contract.

This proposal was reviewed pursuant to the McKinley County Subdivision Regulations and the New Mexico Subdivision Act (Act). It is the opinion of this office that the water supply proposal does not satisfy the requirements of Appendix B, Section V.E of the County Regulations and § 47-6-11.F (1) of the Act. Additionally, insufficient information has been provided to determine if Section V.C. is applicable. Therefore, it is recommended that a **negative** opinion be issued.

## **WATER DEMAND ANALYSIS & WATER CONSERVATION**

The subdivider has quantified the maximum annual water requirements for indoor purposes following the procedure presented on page 309 of Hammer and Hammer, *Water & Wastewater Technology*, 5<sup>th</sup> Edition. Using the Hammer and Hammer procedure, the GPCD-House is determined by multiplying the number of homes by the number of persons (in a home) by the water use in gallons per person per day (gpcd) (Parcels X GPCD X Persons = GPCD-House). The sum of the GPCD-House for each type of household yields the total water demand for the development. The following table lists the data used to quantify the water requirements for the proposed subdivision:

<b>Type of Household</b>	<b>Parcels/Homes</b>	<b>GPCD</b>	<b>Persons</b>	<b>GPCD-House</b>
<b>2 Bedroom (4 persons/house)</b>	<b>11</b>	<b>120</b>	<b>4</b>	<b>5,280 gallons</b>
<b>3 Bedroom (6 persons /house)</b>	<b>63</b>	<b>120</b>	<b>6</b>	<b>45,360 gallons</b>
<b>4 Bedroom (8 persons/house)</b>	<b>52</b>	<b>120</b>	<b>8</b>	<b>49,920 gallons</b>

<b>Total (for all 6 phases)</b>	<b>126</b>	<b>100,560 gallons</b>
<b>GRAND TOTAL (100,560 X 1.5)</b>		<b>150,840 gallons</b>

The total GPCD-House (100,560 gallons) is then multiplied by a “safety factor” of 1.5, yielding a grand total water requirement of 150,480 gallons per day (168.56 acre-feet per annum) for the entire subdivision.

It is unclear from the Disclosure Statement exactly how many lots are proposed for the referenced subdivision since the following discrepancies were found in the submittal:

- Item # 7 of the Disclosure Statement lists 127 parcels for the proposed subdivision.
- Item # 12 of the Disclosure Statement the water budget was calculated assuming 126 parcels.

It is recommended that subdivider amended the Disclosure Statement to reflect the assumptions made in quantifying the maximum water demand. These assumptions should be consistent through out the proposal.

Under Items #17 and #18 of the Disclosure Statement the subdivider includes restrictions and limitations on indoor and outdoor water use within the subdivision in accordance with Appendix B, Section II of the County Regulations. The indoor and outdoor water use restrictions and limitations included in Deed Restrictions coincide with those in the Disclosure Statement. In addition, the Deed Restrictions also prohibit the direct use of water from the Navajo Tribal Utility Authority for gardening.

### **WATER AVAILABILITY ASSESSMENT**

The subdivider proposes to obtain water from Navajo Tribal Utility Authority (NTUA). The subdivider provided a General Water Service Contract (Contract) between NTUA and Dine Estates. As noted in the previous subdivision review, the Contract does not specify that NTUA is capable of supplying the proposed subdivision with the maximum annual water requirements for the subdivision as required by Appendix B, Section V.E., of the County Regulations.

In addition, the documentation provided by the subdivider does not address the OSE’s comments made in the previous review. Appendix B, Section V.E., of the County Regulations requires that the subdivider provide documentation from the water utility that shows: (1) the annual water production for existing customers over the last five years; (2) existing commitments to supply water for new customers; and (3) proof of sufficient water rights to produce and distribute water to meet the demand for existing customers and existing commitments.

This office is also requesting that the following two comments (noted in the pervious review) be addressed:

- Under Item # 15 of the Disclosure Statement the subdivider states that NTUA has a commitment to supply Dine Estates with water for 180 homes. This contradicts the Contract, which states that Dine Estates is limited to 150 residential connections and Earth Movers Development Company (EMDC) Inc. is limited to 30 residential

connections. It is unclear why the commitments are greater than the 127 lots proposed and why EMDC Inc. is mentioned in the Contract.

- The Contract also states that the subdivider must provide NTUA with a well site. It is unclear if this well site will serve as the production location of the water supply for the subdivision. If so, this well site will be considered a new groundwater diversion. Appendix B, Section V.C of the County Regulations requires the subdivider to submit a geohydrologic report and demonstrate 40-year water availability for a new groundwater diversion. At this time this office cannot determine if NTUA will supply water from either a new or existing groundwater diversion.

This office is prepared to re-evaluate the subdivision proposal when the subdivider provides the aforementioned information.