

MEMORANDUM

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

April 17, 2002

To: Brian Wilson, P.E., Water Use and Conservation Bureau Chief
From: Patrick J. Romero, Water Master I
Subject: Windmill Ridge at Rancho Viejo Master Plan, Santa Fe County

Phases III and IV of the Windmill Ridge proposal is a request to develop 304.53 acres of the 564 acre Rancho Viejo residential subdivision. In these phases, 461 primarily residential lots will be created. The lot is located adjacent off Richards Avenue, in Section 24 of T16N, R8E, N.M.P.M.. This proposal was reviewed pursuant to the Santa Fe County Land Development Code (SFCLDC). The developer proposes that water will be supplied to this development via the Santa Fe County Water Utility (SFCWU).

A review of the water rights owned by SFCWU does not indicate that they are in possession of enough water rights to supply this development; it is general knowledge that a good portion of the water rights SFCWU is in possession of at this time are San Juan/Chama diversion rights, which expire on December 31, 2016. In order to determine if SFCWU can provide this development with water, the developer should provide information showing proof of sufficient water rights pursuant to Section 6.4.4 of the SFCLDC. To do this, a tabulation should be prepared. It should show permanent water rights owned by the SFCWU and SFCWU leased water rights including expiration dates; SFCWU annual water demand for existing customers; and commitments to supply water for new developments. With this information, we can compare the total water demand with the supply that is available to SFCWU.

The subdivider has supplied a letter from the water utility, in which the utility states that they are ready, willing, and able to supply this development. Article VII, Section 6.4.4.a of the SFCLDC further require that this letter state if the subdivider is required to supply any water rights for the development in question. This letter fails to meet this requirement. If SFCU cannot provide perpetual water rights for this development, it is incumbent on the developer to provide them. Section 6.4.4.a of the SFCLDC require that the developer have a letter guaranteeing the maximum annual water requirement.

Article VII, Section 47-6-11.F.1 of the New Mexico State Subdivision Act requires the State Engineer to determine if the subdivider can furnish water in sufficient quantities to fulfill his needs. The State Engineer Staff has been directed by the State Engineer to deny approval of all development

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dependent on leased San Juan-Chama water. The Office of the State Engineer realizes that the short-term droughts that occurred in 1996 and in 2000 demonstrated the City's vulnerability to water shortages that compromise its ability to satisfy the full water demand for its existing customers. State Regulations further state that when given an adverse opinion, it is the subdividers' responsibility to prove the opinion is incorrect (47-6-11.H.3).

The subdivider has properly quantified his development's water requirements, as per Article VII, Section 6.6. Water requirements were determined by using the County's 0.25 acre-feet per year factor. Restrictions on irrigated area are specified in their disclosure statement.

It is my conclusion that the subdivider has not demonstrated that sufficient water is available to meet the requirements of the proposed development. A **negative** opinion to this effect should be issued.