September 5, 2008

Mr. James M. Aranda
Regional Planner
Valencia County
P.O. box 1119
Los Lunas, NM 87031

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Re: Vistoso Ranch Unit 1 Subdivision

Dear Mr. Aranda:

The Water Use & Conservation/Subdivision Review Bureau of the Office of the State Engineer has reviewed the referenced subdivision proposal pursuant to the Valencia 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, Albuquerque Office

JK:jk

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

DATE: September 3, 2008
TO: John Longworth, P.E. Water Use & Conservation Bureau Chief
FROM: Jerry Keller, Senior Water Resource Specialist
SUBJECT: Vistoso Ranch Unit 1 Subdivision in Valencia County

SUMMARY

On August 19, 2008 the Office of the State Engineer (OSE) received additional/revised information for the Preliminary Plat for Vistoso Ranch Unit 1, a Type-Two Subdivision. The proposal is a request to subdivide a 43.56-acre parcel into 99 residential lots ranging in size from approximately 4,000 square feet to 9,000 square feet each. The development was previously known as Frontier Town Subdivision and proposed 100 lots. The proposed water supply is by New Mexico Water Service Company. The property is located in Rio Communities approximately one mile east of Highway 47 and south of Manzano Expressway, within the Tome Grant.

This office issued a positive opinion for the Frontier Town Subdivision on July 23, 1997. The water supply was to be provided by Rio Grande Utility Corporation, predecessor to of the New Mexico Water Service Company. This office issued a negative opinion for Vistoso Ranch Unit 1 on July 21, 2008 for the reason that the subdivision proposal was not in compliance with the requirements of Sections 15.6.2.A and 15.6.7.G of the Valencia County Comprehensive Subdivision Regulations and Sections 47-6-11-F (1) and 47-6-17 of the New Mexico Subdivision Act.

The revised water supply documents submitted to this office consist of a Disclosure Statement, Declaration of Covenants, Conditions and Restrictions (CCR's), a Water Service Letter, and Plat Map.

The revised proposal was reviewed pursuant to the Valencia County Comprehensive Subdivision Regulations (Regulations) and the New Mexico Subdivision Act (Act). The water supply proposal is not in compliance with the requirements of Sections 15.6.7.G of the Regulations and Sections 47-6-11-F (1) and 47-6-17(11) of the Act. Accordingly, a **negative** opinion should be issued.

WATER DEMAND ANALYSIS AND WATER CONSERVATION

Section 15.6.2.A of the Regulations requires that the subdivider prepare a detailed water demand analysis using the step-by-step computation procedure presented in the relevant State Engineer Technical Report. The revised proposal contains the required demand analysis.

The total annual subdivision water use is estimated as 37.5 acre-feet including fire flow requirements and a distribution system efficiency of 95%.

Annual indoor water use is estimated as 0.3 acre-feet per lot assuming 3 persons per household and low-flow plumbing fixtures and appliances. Faucet water use is left blank in the table of water use assumptions. The water requirement for evaporative cooling is estimated as 47.6 gallons per capita per day. This estimate is higher than would be expected for the Belen area. The method used to calculate the evaporative cooler water use is not provided. The overall demand estimate of 90.5 gallons per capita per day is within acceptable limits.

Outdoor use is estimated as 0.06 acre-feet per lot based on 400 square feet of Bermuda grass and 400 square feet of shrubs.

Section 7.6.4 of the CCR's has been revised to include the water use assumptions and restrictions utilized to prepare the water demand estimates. The total irrigated area may not exceed 800 square feet. This office also suggests that other outdoor uses such as swimming pools, hot tubs, water fountains, and decorative ponds be restricted.

As previously noted, the subdivider has not described the annual water requirements of the subdivision including water for indoor and outdoor domestic uses in the Disclosure Statement as required by the Regulations and the Act. Section 47-6-17(11) B of the Act states "*The disclosure statement for subdivisions with not fewer than five and not more than one hundred parcels shall contain at least the following information... (11) a statement describing the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses, and describing the availability of water to meet the maximum annual water requirements.*"

WATER AVAILABILITY ASSESSMENT

The subdivider proposes to obtain water service from New Mexico Water Service Company (NMWSC). A letter from NMWSC indicating the utility will provide water service to the project is included in the proposal.

The OSE records indicate NMWSC is permitted to divert 1,387 acre-feet per annum. NMWSC also has an approved return flow for approximately twenty three (23) percent of its diversion. NMWSC annual usage has been between 1,228 and 1,331 acre-feet per annum during the time period 2001 through the end of 2007.

The water service commitment letter generally provides the information required by Section 15.6.7.G of the Regulations. The letter summarizes NMWSC water rights, water production, and service commitments. NMWSC has documented that it can physically produce the water necessary to meet its existing and future commitment, including the proposed subdivision. NMWSC indicates current excess capacity is available to serve an additional 1,800 homes and

NMWSC has entered into extension agreements or issued commitment letters for approximately 1,410 homes, which are yet to be constructed. The proposed subdivision lots are within the prior commitment for the Frontier Town subdivision and are part of the 1,410 service commitments.

However, the letter does not expressly commit service or obligate NMWSC to provide the maximum annual water requirements of the subdivision. The conditions affecting service are summarized below:

- The commitment letter will terminate if the subdivider does not move forward in a timely manner
- Should Valencia County require an updated water availability letter, the letter will be issued on a first-come-first-served basis.
- Should this occur, it may also be possible that the subdivider will be required to acquire, deed and transfer to NMWSC water rights in an amount that is sufficient to serve the subdivision.
- The subdivider can ensure service in the future by acquiring, deeding, and transferring to NMWSC water rights in an amount that is sufficient to serve the subdivision.

Therefore, this office cannot make the determination whether the subdivider can fulfill the proposals in his disclosure statement concerning water, excepting water quality pursuant to Section 47-6-11-F (1) of the Act.