



COLORADO
Division of Water Resources
Department of Natural Resources

March 22, 2023

Alan Goldich
Routt County Planning
via email: Agoldich@co.routt.co.us

Re: Clark Store PUD, PL20210026
Section 28, Township 7 North, Range 85 West
Water Division 6, Water District 58

Dear Mr. Goldich:

We have reviewed the water supply for the above proposal for a PUD that will ultimately result in a subdivision of land, as defined in section 30-28-101(10)(a) C.R.S., of an approximately 64 acre parcel into a 57.05 acre lot, 1.29 acre right-of-way and a 5.00 acre parcel for the Clark Store PUD.

While no information was provided regarding the water supply for the 57.05 acre parcel, within the proposed Clark Store PUD there is the existing store and a barn structure with four existing dwelling units, all of which are to be supplied by a spring. According to the information provided, the spring was decreed as the Bush Spring and Pipeline Priority #5, which was decreed by the court in case no. CA-3538 for 0.0111 cubic feet per second (five gallons per minute) for domestic purposes. The applicant indicated they will apply for a second water right (an enlargement) on the spring. The spring is subject to administration in Colorado's water rights priority system and the applicant has indicated that they are aware the spring is junior in priority and would be subject to curtailment when out-of-priority. As such, they have indicated they intend to apply for a contract to operate the spring under the Upper Yampa Water Conservancy District's umbrella augmentation plan to replace any out-of-priority depletions.

Though the water supply for the Clark PUD is from a surface water right, the applicant should be aware that for subdivisions created after 1972, section 37-92-602(3)(b)(III), requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. Any well or wells that would supply either the 57.05 acre lot or the 5.00 acre PUD lot would be from, or tributary to, the Yampa River. This area of the Yampa River is over-appropriated; therefore, a court decreed plan for augmentation plan would be required to offset depletions caused by the pumping of any wells within the subdivision including any existing wells.

No information was provided concerning the physical adequacy of the water supply. As stated in CRS 30-28-133(3)(d), the subdivider is required to submit "Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed." Adequate evidence is usually provided in the form of a water resource report, prepared by a professional engineer or water consultant, which addresses the quality, quantity, and dependability issues. A report of this nature was not provided.

Based on the above, it is our opinion, pursuant to section 30-28-136(1)(h)(I), C.R.S. that the proposed water supply from the spring would cause material injury to decreed water



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rights if the applicant does not operate the spring under an approved plan for augmentation to replace out of priority depletions. We recommend that prior to final approval of the subdivision, the County requires the applicant to provide a copy of an approved augmentation plan or contract to operate under the Upper Yampa Water Conservancy District's umbrella plan. We also recommend that the county require the applicant to provide evidence of physical adequacy.

If you or the applicant has any questions concerning this matter, please contact me for assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Megan Sullivan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Megan Sullivan, P.E.
Water Resource Engineer

From: [Light - DNR, Erin](#)
To: [Alan Goldich](#)
Cc: [Sullivan - DNR, Megan](#); [Jeff Deatherage - DNR](#)
Subject: Re: Clark Store
Date: Monday, March 27, 2023 8:48:34 PM

Hello Alan - I have looked through the latest report Four Points Surveying. Based on this report, the sole source of water for the Clark Store and its planned expansions is and will be the Bush Spring and Pipeline. As you are aware, the Bush Spring and Pipeline is decreed for domestic purposes only and does not allow for commercial use. To resolve this issue, the owner's [of the Clark Store] plan to file for a new water right that allows for such uses, and because this will be a junior water right, they also plan to obtain a contract with Upper Yampa Water Conservancy District for "augmentation water". This will allow the use of water under the junior water right to continue when the Elk River goes on call by releasing water out of Steamboat Lake to replace out of priority depletions associated with the spring. This plan is appropriate and it will be important for the owners to follow through with this plan.

Please let me know if you need any more information from us.

Erin Light, P.E.

Division Engineer, Water Division 6



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On Mon, Mar 20, 2023 at 9:20 AM Alan Goldich <agoldich@co.routt.co.us> wrote:

Good morning. Happy first day of spring. Today is the deadline to have comments in for the Clark Store PUD and subdivision. I know there were some issues with their water source so would really appreciate getting comments from you today or tomorrow. Attached is the additional information that they provided in response to your questions. Please let me know if there is anything I can do to help facilitate getting comments in.

Thanks,

Alan Goldich

Routt County Planning

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Please consider the environment before printing this email.