

Guideline 2003-5

Regarding the Use of Wells Within Water Service Areas

In an effort to provide consistent review of well permit applications pursuant to section 37-92-602(6), CRS (2003), the following guidelines were prepared. Section 37-92-602(6) states:

“It is hereby declared to be the policy of the state of Colorado that the exemptions set forth in this section are intended to allow citizens to obtain a water supply in less densely populated areas for in-house and domestic animal uses where other water supplies are not available. It is not the intent that these wells be used to cause material injury to prior vested water rights, and, wherever possible, persons seeking the use of such individual wells may be required to develop plans for augmentation pursuant to section 37-92-302 or to develop other replacement plans acceptable to the state engineer.”

There are three types of entities that we would consider legal water suppliers within Colorado. Additionally, to qualify, we must have on file or access to, the legal boundaries of each water supplier.

- I. Municipal or quasi-municipal water supplier (e.g., water district) that would assess property taxes for individuals within their taxing boundaries.
- II. Private water company who is registered with the Secretary of State and/or the Public Utilities Commission.
- III. Operators of decreed plans for augmentation (e.g., homeowner associations) to augment on-lot wells or central wells for a residential or commercial development.

The guidelines are as follows for permit applications requested under section 37-92-602 (including areas where ground water is available for appropriation).

- A. Each application will be evaluated on a case-by-case basis in accordance with these guidelines.
- B. Verify if location of well is within a water service area.
- C. Economic or associated costs with connecting to a water supplier's system cannot be considered by this office as a basis for granting an exempt well permit. Additionally, we cannot issue any exempt permits because of water quality issues of a water supplier's system. However, the water supplier may decide to allow an applicant to drill a well based on cost or water quality issues.
- D. The operational condition of a water system or augmentation plan will not be considered in determining whether to grant an exempt well permit. However, the water supplier may decide to allow an applicant to drill a well on this basis.

- E. If a proposed well will be in a known water service area that is served by a central system, we will not issue an exempt well permit unless accompanied by a letter from the supplier stating that they cannot provide water to the applicant or they do not object to the applicant obtaining a well permit within the water service area.
- F. If an augmentation plan decree specifically states that all water or well uses must be covered by the augmentation plan, no exempt well permits should be issued until the decree is modified or vacated.
- G. If an augmentation plan decree does not specifically state that all water or well uses will be covered by the augmentation plan, no exempt well permits should be issued unless the augmentation plan operator provides in writing that they have no objection to the issuance of exempt well permits (if they qualify) within the augmentation plan area. If they provide a letter of objection, we will abide by their request.
- H. If an augmentation plan decree specifically allows for exempt wells, these should be evaluated on their own merits.
- I. If the well is in a subdivision approved on or after June 1, 1972, the water supply must be per recommendations stated in our response letter to the county's referral request.
- J. Water Conservancy Districts do not qualify as water suppliers under these guidelines. As such, exempt well permits may be issued within such district's boundaries without regard to Section 37-92-602(6).
- K. A request to late register a well pursuant to section 37-92-602(5) or 37-90-105(4) will be evaluated on its own merits. It is the interpretation of this office that such wells are not subject to the provisions of section 37-92-602(6).
- L. A request for a replacement well permit will not be subject to the provisions of section 37-92-602(6), unless the replacement well will be completed in a different source than the well being replaced, or for a change or expansion of use.
- M. A request to permit a well pursuant to Article 90 will be evaluated on its own merits and shall not be subject to the provisions of section 37-92-602(6).

Approved:



Hal D. Simpson
State Engineer

9/16/03
Date