



Coulson Water Rights Response Letter

Peter Wayland <pwayland@weilandinc.com>

Fri, Apr 7, 2023 at 4:13 PM

To: Jared Ebert <jared.ebert@state.co.us>

Cc: Eric Scott - DNR <eric.scott@state.co.us>, Patrick Lennberg <patrick.lennberg@state.co.us>

Jared,

Please find attached. I am available next if you have any further questions.

Peter Wayland

Weiland, Inc.

PO Box 18087

Boulder, CO 80308

M 303.518-2182



Coulson Water Rights Response 4-7-23.pdf

249K



April 7, 2023

Jared Ebert
Colorado Division of Reclamation Mining & Safety
1313 Sherman St., Room 215
Denver, CO 80203

Re: Response to Your Letter Dated March 21, 2023 Concerning Coulson Water Rights Injury
and Compliance

Mr. Ebert,

The notice from the Division office was due to a situation where replacement water deliveries from the City of Loveland were short 2.31 acre-ft due to an error in the replacement schedule we submitted to the City the previous year. I had alerted the Water Commissioner of this error and what we did to rectify the situation (please see enclosed correspondence). We now understand that should this happen again; excess depletions are to be made immediately. In order to prevent this from happening again, we have given the City of Loveland the correct replacement schedule for the 22-23 Water Year. In addition, Coulson has hired additional engineers and is pushing their water attorney to finalize the Long-Term Augmentation Plan (19CW3157) for the Gardels, Brownwood, Kirtright, and Challenger sites, which will greatly simplify the management of their mining operation substitute water supply plans.

Sincerely,

A handwritten signature in black ink that reads 'Peter Wayland'.

Peter Wayland
President

Encl. 2-16-23 and 3-10-23 email thread from D 4 Water Commissioner and Mr. Hein

From: [Hein - DNR, Michael](#)
To: [Peter Wayland](#); ken@coulsonex.com
Cc: [Tracy Kosloff](#); [Deangelis, Corey](#); [Jean Lever](#); [Vargas-Johnson - DNR, Javier](#); [Deatherage, Jeff](#); [Russ Means - DNR](#)
Subject: Re: Coulson Replacements
Date: Friday, March 10, 2023 2:00:33 PM

Mr. Wayland and Mr. Coulson,

The email from Mr. Wayland implies we have the authority to authorize the Coulson Excavating Company, Inc. ("Coulson") to injure calling senior water rights. Our duty is to ensure Coulson follows the terms of the approved substitute water supply plan ("SWSP"), which requires the release of replacement water sufficient to cover all out-of-priority depletions and return flow obligations associated with the plan in the proper time, place, and amount. Notwithstanding the injury that occurred through January 2023, going forward we are putting Coulson on notice that **Coulson must replace all out-of-priority depletions in accordance with the approved SWSP.**

Coulson is required to maintain daily accounting of water operations including but not limited to: diversions, lagged depletions, return flow obligations and replacements. As such, Coulson should be monitoring and operating their plan in accordance with the terms and conditions within the approved SWSP and be aware of any unmet depletions and return flow obligations on a daily basis no later than the day after the occurrence. Coulson should act swiftly in the following day or two to remedy the situation, not at the end of the month or months after the unreplaced depletions and return flow obligations have impacted the stream. If Coulson continues to cause injury to senior water rights, we will have no other choice than to issue orders as necessary to cease and desist operations such that the plan can adequately replace the out-of-priority depletions. I must also inform you that the Colorado Division of Reclamation, Mining and Safety has been made aware of the lack of compliance and the resulting injury.

Regards,

Michael Hein, P.E.
Assistant Division Engineer
Water Division 1



We have Moved...Please note the new address below!

1809 56th Avenue
Greeley, CO 80634
P: 970.352.8712 x 1219 | C: 970.786.5578
michael.hein@state.co.us | dwr.colorado.gov

We have limited public walk-in hours on Tuesdays & Thursdays from 10:00 a.m. - 3:00 p.m.

Please complete our new [DWR User Experience Survey](#) to express your opinions of our service. Your complete satisfaction is important to us!

On Thu, Feb 16, 2023 at 10:46 AM Peter Wayland <pwayland@weilandinc.com> wrote:

Jean,

In October 2022 we showed a deficit to the river in the amount of 2.31 acre-ft. In November we delivered an excess of 1.04 acre-ft and in December an excess of 0.66 acre-ft. Ryan VanPelt is able to deliver an excess of 0.61 in January.

Is this acceptable for making up the -2.31 acre-ft deficit ?

Thanks

Peter Wayland

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