

DEPARTMENT OF NATURAL RESOURCES

Division of Water Resources

RULES AND REGULATIONS FOR THE PERMITTING AND USE OF WATERS ARTIFICIALLY RECHARGED INTO THE DENVER BASIN AQUIFERS AND NONTRIBUTARY GROUNDWATER AQUIFERS

2 CCR 402-11

RULE 1 TITLE

The title of these rules and regulations is "Rules and Regulations for the Permitting and Use of Waters Artificially Recharged Into the Denver Basin Aquifers and Nontributary Groundwater Aquifers". The short title for these rules and regulations is "Artificial Recharge Extraction Rules". They may be referred to herein collectively as the "Rules" and individually as a "Rule".

RULE 2 AUTHORITY

These rules and regulations are promulgated pursuant to the authority granted the State Engineer in Sections 37-80-102(1)(g) and (k), 37-90-138, C.R.S. and 37-90-137(9)(d), C.R.S. (2017¹).

1 All statute references in this document are to C.R.S. (2017) unless otherwise noted.

RULE 3 SCOPE AND PURPOSE

3.1 These rules apply to the evaluation and processing of applications for permits to extract water which has been Artificially Recharged into one or more of the Denver Basin aquifers, identified as the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers, as defined in the Denver Basin Rules, 2 CCR 402-6, or Nontributary Groundwater Aquifers, as defined in Rule 4.3.11, all located outside the boundaries of any designated groundwater basin.

3.2 The Naturally Occurring water contained in the Denver Basin aquifers and Nontributary Groundwater Aquifers is a significant but finite resource. Artificial Recharge of these aquifers by Injection of surface and/or groundwater for the purpose of subsequent Extraction, or for maintaining water levels will extend the life of this resource. The rules promulgated herein are required to enable the State Engineer to administer the orderly withdrawal of any water Artificially Recharged into these aquifers.

3.3 Withdrawal of Artificially Recharged Water may be accomplished through an existing well, or through a well specifically constructed for the purpose of Extracting Artificially Recharged Water. These rules do not apply to wells completed in multiple aquifers separated by a confining unit. These rules and regulations apply to the permitting and construction of Extraction Wells, for the permitting of Extraction through the extended use of existing wells, and for the assessment of application fees. Their purpose is to make the submission, consideration and evaluation of permit applications more uniform and certain. The granting of permits also provides the State Engineer the means to monitor and record the development and use of Artificially Recharged Water.

3.4 These rules establish minimum standards for documenting the nature and amount of Artificially Recharged Water available for Extraction from the Denver Basin aquifers and Nontributary Groundwater Aquifers.

3.5 Pursuant to Section 37-90-137(9)(d), C.R.S., the Extraction of Artificially Recharged Water is recognized as a beneficial and conjunctive use of surface and groundwater resources. These rules provide for the submission and evaluation of permit applications to extract and use water which has been Artificially Recharged into the Denver Basin aquifers and Nontributary Groundwater Aquifers. These rules also provide for the consideration of impacts to existing wells and other water rights by the Extraction of recharged water.

3.6 These rules define the State Engineer's authority to monitor and account for the Extraction and use of Artificially Recharged Water and to require the installation of measuring devices, to prevent injury to existing surface water rights and existing users of, and rights to water from the Denver Basin aquifers and Nontributary Groundwater Aquifers, and to provide the means for enforcing these rules.

3.7 These Rules and Regulations shall not be construed to establish the jurisdiction of either the State of Colorado or the Southern Ute Indian Tribe over nontributary groundwater within the boundaries of the Southern Ute Indian Reservation as recognized in Pub. L. No. 98-290, § 3, 98 Stat. 201 (1984).

RULE 4 DEFINITIONS

4.1 Statutory Definitions - The terms listed below are defined by statute and have the identical meaning as in the referenced statutes:

4.1.1 Colorado Ground Water Management Act, Section 37-90-103, C.R.S. defining Aquifer, person, private driller, and well.

4.2 Definitions from Other Rules

4.2.1 The terms listed below are defined in the Rules and Regulations Applying Exclusively to the Withdrawal of Ground Water from the Dawson, Denver, Arapahoe and Laramie-Fox Hills Aquifers in the Denver Basin, 2 CCR 402-6, (1987), also known as the Denver Basin Rules, and have the identical meaning as in the referenced rules: Dawson aquifer. Upper Dawson aquifer. Lower Dawson aquifer, Denver aquifer, Arapahoe aquifer. Upper Arapahoe aquifer. Lower Arapahoe aquifer, Laramie-Fox Hills aquifer, Denver Basin aquifers, and Denver Basin.

4.2.2 The terms listed below are defined in the Statewide Nontributary Ground Water Rules, 2 CCR 402-7, (1986), and have the identical meaning as in the referenced rules: cylinder of appropriation, and State Engineer.

4.3 Specific Definitions - For the purposes of these rules, unless expressly stated otherwise, the following terms shall have the meaning indicated in this Rule. Words used in the present tense include other tenses; words used in the masculine gender include the feminine and neuter genders.

4.3.1 "Applicant" means that person or entity applying for a permit to extract Artificially Recharged Water pursuant to these rules and Section 37-90-137(9)(d), C.R.S.

4.3.2 "Artificial Recharge" means placing water into a Denver Basin aquifer or Nontributary Groundwater Aquifer by Injection.

4.3.3 "Artificially Recharged Water" means water placed into one or more of the Denver Basin aquifers or Nontributary Groundwater Aquifers pursuant to Rules 4.3.2 and 4.3.9.

4.3.4 "Confined Aquifer" means an aquifer, the potentiometric surface of which lies at an elevation above the elevation of the top of the aquifer. The potentiometric surface should be determined from Static Water Level data to the greatest extent possible.

4.3.5 "Contiguous Extraction Area" means an area within a Denver Basin aquifer or Nontributary Groundwater Aquifer from which the Applicant has the right to withdraw the Naturally Occurring water and from which the Applicant is proposing to extract Artificially Recharged Water. The Applicant's right to withdraw the Naturally Occurring water through overlying land ownership, consent of the landowner as described in Section 37-90-137(4)(b)(II), C.R.S., or other means, must be continuous throughout the Contiguous Extraction Area. The land area overlying the Contiguous Extraction Area need not be a single legal tract of land.

4.3.6 "Designated Agent" means the representative of an owner of Artificially Recharged Water and/or an Extraction Well or the representative of an Applicant for an Extraction Well permit who has been authorized in writing by the owner or Applicant to act on behalf of the owner or Applicant.

4.3.7 "Extraction" or "Extracting" means the withdrawal or recovery of water which has previously been Artificially Recharged into a Denver Basin aquifer or Nontributary Groundwater Aquifer.

4.3.8 "Extraction Well" means an existing permitted well or a well that has been, or will be constructed for the purpose of Extracting Artificially Recharged Water which was previously injected into a Denver Basin aquifer or Nontributary Groundwater Aquifer. When applied to an existing, permitted well, this term may describe a well which has been authorized for the Extraction of an amount of water beyond the amount of Naturally Occurring groundwater authorized for withdrawal under the existing permit.

4.3.9 "Hydraulic gradient" means the change of total head over a horizontal distance (expressed per unit distance) as determined from Static Water Level data to the greatest extent possible, at any point and in a specified direction.

4.3.10 "Injection" means the act of placing water into a Denver Basin aquifer or Nontributary Groundwater Aquifer through a well, or other structures if approved by the State Engineer in accordance with Rule 10, by pressure or force of gravity. If the volume of water injected could be subject to evaporation, transpiration, or other losses prior to delivery to the aquifer, the extraction of Artificially Recharged Water can take place only through a variance pursuant to Rule 10.

4.3.11 "Naturally Occurring" means that groundwater which is naturally present in the Denver Basin aquifers or Nontributary Groundwater Aquifers and which has been or may be quantified pursuant to 37-90-137(4) and (5), C.R.S., the Statewide Nontributary Ground Water Rules, 2 CCR 402-7, and as appropriate, the Denver Basin Rules, 2 CCR 402-6.

4.3.12 "Nontributary Groundwater Aquifer", an aquifer that contains nontributary ground water outside of the Denver Basin and Designated Basins where either (1) a valid court decree, statute, or rule describes the groundwater as nontributary, in a manner consistent with the nontributary definition in Section 37-90-103(10.5), or (2) a valid well permit has been issued pursuant to Section 37-90-137(4). This does not include aquifers determined to be nontributary solely² pursuant to the Produced Nontributary Groundwater Rules.

² An aquifer determined to be nontributary pursuant to the Produced Nontributary Groundwater Rules, as directed by Section 37-90-137(7)(c), is determined to be nontributary for the purposes of subsection 37-90-137(7). Subsection 37-90-137(7) describes well permitting requirements "In the case of dewatering of geologic formations by withdrawing nontributary groundwater to facilitate or permit mining of minerals". Such an aquifer must also be determined nontributary through another means described in Rule 4.3.11 in order to be subject to these Rules.

4.3.13 "Pre-213 Well", a well authorized to withdraw nontributary ground water or Denver Basin groundwater, where the right to the use of groundwater meets the criteria described in Section 37-90-137(5), C.R.S.

4.3.14 "Remote Extraction" means the Extraction of Artificially Recharged Water from a well other than a well through which the volume of water to be extracted was injected.

4.3.15 "Static Water Level" means the water level in a well that is not affected by pumping or injection when there is less than one (1) foot difference between two (2) consecutive water level measurements taken at least 60 minutes apart.

4.3.16 "Unconfined Aquifer" means an aquifer, the potentiometric surface of which lies at or below the elevation of the top of the aquifer. The potentiometric surface should be determined from Static Water Level data to the greatest extent possible.

4.4 Other Definitions - All other words used herein shall be given their usual customary and accepted meanings. All words of a technical nature not defined herein shall be given the meaning which is generally accepted in the applicable scientific profession.

RULE 5 GENERAL RULES

5.1 Nature of Artificially Recharged Water- Water Artificially Recharged into a Denver Basin aquifer or Nontributary Groundwater Aquifer, whether for the maintenance of water levels or for subsequent Extraction shall be, at the time of Injection, fully consumable and/or reusable pursuant to decree, statute, or regulation, or shall have been, at the time of Injection, decreed for storage by means of Artificial Recharge in the Denver Basin aquifers or Nontributary Groundwater Aquifers, or shall be otherwise legally and physically available for storage by means of Artificial Recharge into the Denver Basin aquifers or Nontributary Groundwater Aquifers. Any augmentation or relinquishment requirements applicable to the water to be injected shall be met prior to or at the time of Injection unless otherwise provided for by decree.

5.2 Protection of Life, Health, and the Environment - All Extraction operations shall be conducted in a manner that will protect the life and health of the citizens of the State of Colorado,

and cause no injury to existing users of, and rights to water from the Denver Basin aquifers and Nontributary Groundwater Aquifers and comply with all applicable federal, state, and local rules.

5.3 Knowledge of Rules - It shall be the responsibility of all persons contemplating the Extraction of Artificially Recharged Water to obtain information pertaining to the regulation of Artificially Recharged Water before beginning Extraction of that water. The owner shall be responsible for knowing and complying with applicable federal, state, and local statutes, and rules and regulations.

5.4 Entry upon Property - The State Engineer and any duly authorized representatives have the authority and duty to enter upon, and to order the well owner to permit the entry upon, private property at any reasonable time to inspect the various means or proposed means of Extraction; to observe well construction and plugging; to read or verify the accuracy of meters, gauges, and other measuring devices; and to inspect records.

5.5 Plugging - The owner of any Extraction Well, shall be liable and responsible for the plugging thereof in accordance with these rules and regulations, and the Water Well Construction Rules, 2 CCR 402-2 (September 1, 2016), within ninety-one (91) days of the expiration or cancellation of an Extraction Well permit, or in any shorter period when required by the State Engineer, unless the well may continue to operate pursuant to decree, or under another permit as other than an Extraction Well.

5.6 Well Identification - All wells constructed pursuant to these rules shall be marked by the owner in a conspicuous place with the owner's name, court case number (if applicable), permit number or numbers of the well, WDID³ (if applicable), aquifer, the well designation given by the owner (if used), and legal description of the location of the well. The owner shall take all necessary means and precautions to preserve and maintain these markings.

3 A WDID number represents the water district (WD) and the identification number (ID) assigned to a structure or water right within the water district.

5.7 Metering of Injection/Extraction - All wells used for the purposes of Artificial Recharge and/or Extraction shall be equipped with totalizing flow meters or alternate measurement methods that comply with standards and specifications adopted by the State Engineer.

5.7.1 The owner of an Injection and/or Extraction Well shall install and maintain totalizing flow meters or alternative measurement methods to measure the amount of all water Injected and Extracted in compliance with the Division of Water Resources Well Measurement Program Standard Version 1.4 (March 1, 2018). Meters are to be verified prior to the initiation of Injection and/or Extraction, and shall be reverified every four years thereafter.

5.7.2 Flow meters installed on existing wells which are authorized for the withdrawal of Naturally Occurring groundwater, shall be reverified to be in accurate working condition prior to the initiation of Injection and/or Extraction, and shall be reverified to be in accurate working condition every four years thereafter.

5.8 Data Format - The State Engineer may require that data submitted in support of an application to extract Artificially Recharged Water, or data required by Rule 9.6 and 9.7 be submitted in a format approved by the State Engineer. Such data, when compiled, shall be available to any interested party.

RULE 6 PERMIT TO EXTRACT ARTIFICIALLY RECHARGED WATER

6.1 Permit Required - Prior to Extracting Artificially Recharged Water, the owner or Designated Agent of the recharged water shall obtain a permit to extract from the State Engineer. The proposed Extraction may be accomplished through an existing well previously permitted pursuant to Section 37-90-137(4), C.R.S., through an existing well authorized as a Pre-213 Well, or through a new well. Any application for a permit to extract Artificially Recharged Water shall be supported by copies of all approvals, authorizations, and permits allowing the Injection of water which is proposed for Extraction. The application shall include adequate documentation that the Artificially Recharged Water satisfies the requirements of Rule 5.1.

6.2 Application for a Permit to Extract Through an Existing Permitted Well - Permit applications shall be submitted on forms prescribed by the State Engineer. A permit to extract authorizes the Extraction of Artificially Recharged Water through the existing well in addition to the withdrawal of Naturally Occurring groundwater authorized pursuant to Section 37-90-137(4), C.R.S. or as a Pre-213 Well.

6.2.1 An application to extract Artificially Recharged Water through an existing well shall be supplemented with a report summarizing the hydrological conditions in the existing well at the time of permit application and provide additional information including, but not limited to:

- a. evidence as to whether the aquifer is a Confined Aquifer or Unconfined Aquifer at the Injection site(s) and any Remote Extraction site, at the time of application.
- b. static water levels,
- c. aquifer hydraulic gradient,
- d. hydraulic conductivity or transmissivity,
- e. a copy of all water quality data reports required by and provided to other federal, state or local agencies to obtain an injection well permit or authorization by rule,
- f. map of Contiguous Extraction Area, the Extraction Well location, and all Injection wells that will inject Artificially Recharged Water to be extracted through the subject well,
- g. the distance from the Injection well(s) to the proposed Extraction Well;
- h. for Unconfined Aquifers, evidence that any Remote Extraction site is located down hydraulic gradient from the Injection site(s),
- i. evidence that the Injection wells are within the same Contiguous Extraction Area as the proposed Extraction Well,
- j. an accounting of the timing, amount, and location of water previously Artificially Recharged at each well site broken down by water right, or water type,
- k. evidence that the injected water satisfies Rule 5.1, Nature of Artificially Recharged Water,

- l. information demonstrating the Applicant's right to use of the recharged water,
- m. information demonstrating the Applicant's right to withdraw the Naturally Occurring groundwater within the Contiguous Extraction Area,
- n. the amount of such previously injected water that has been extracted,
- o. evidence that the Applicant has the right to use or consent to use the proposed Extraction Well.
- p. identify all decreed rights and permitted or registered wells of record in the State Engineer's office allowing the withdrawal of groundwater from the same aquifer within one (1) mile of the proposed Extraction site(s).
- q. UTM coordinates of the existing well,
- r. well permit number of the existing well, if applicable,
- s. well completion and pump installation information if not already on record with the State Engineer.

6.3 Application for a Permit to Extract Through the Construction of a New Well - Permit applications shall be submitted on forms prescribed by the State Engineer. A permit to extract authorizes the construction of a well which may be used for the Extraction of Artificially Recharged Water. Such permit may also authorize the withdrawal of Naturally Occurring groundwater pursuant to C.R.S. 37-90-137.

6.3.1 Application to construct a well to extract Artificially Recharged Water, whether or not that well will also be used to withdraw groundwater pursuant to replacement of a Pre-213 Well or pursuant to Section 37-90-137(4), C.R.S., shall be supplemented with a report summarizing the hydrological conditions at or around the site of the proposed Extraction Well at the time of permit application and provide additional information, including, but not limited to items listed in Rule 6.2.1 a through p.

6.4 Notice of Application - An application for a permit to extract shall be accompanied by evidence that the Applicant has given notice of the application by registered or certified mail, return receipt requested, no less than thirty-five (35) days prior to the filing of the application to the owners of all decreed rights and permitted or registered wells of record in the State Engineer's office allowing the withdrawal of water from the same aquifer within one (1) mile of the proposed Extraction site(s).

6.4.1 The notice shall instruct such owners that they must submit a written objection to the State Engineer within thirty-five (35) days of mailing the notice if they want to object to the proposed Extraction.

6.4.2 If no objection to the proposed Extraction is filed within thirty-five (35) days of mailing the notice and the State Engineer finds that circumstances in this instance warrant, the State Engineer shall issue the permit. If a timely written objection is filed, the State Engineer shall hold

a hearing pursuant to the State Engineer Procedural Rules, 2 CCR 402-5 (2015) to determine whether particular circumstances warrant issuing a permit.

6.5 Application Fees - The application fee for a permit to extract through an existing well or permit to construct shall be that fee as specified in 37-90-137(2)(a)(II), C.R.S. Departments and agencies of the State of Colorado shall be exempt from the payment of application fees.

6.6 Permit to Extract - If a permit application meets the requirements of Section 37-90-137(1) and 37-90-137(2)⁴, C.R.S., any other applicable provisions of 37-90-137, C.R.S., and the provisions of these rules, the State Engineer shall issue the permit, subject to protective terms and conditions to prevent injury to other persons who have rights/permits to extract Artificially Recharged Water and/or withdraw Naturally Occurring groundwater from the Denver Basin aquifers or Nontributary Groundwater Aquifers. For a permit to extract through the construction of a new well or for a permit to extract from an existing well, the State Engineer shall, in the absence of an objection pursuant to Rule 6.4.2, act on a permit application within forty-nine (49) days of its receipt. A permit to extract does not grant a right for the owner of recharged water to enter upon lands not owned by the Applicant.

4 The State Engineer need not complete the requirements of Section 37-90-137(2)(b)(II) related to 600 feet of spacing between wells because the process in Rule 6.4 provides notice to all wells within 1 mile.

6.7 Well Location - When selecting sites for Extraction Wells, the well owner or operator shall consider the hydrogeologic and hydrologic conditions at the Injection/Extraction site, or between the site of Injection and the proposed Remote Extraction site. The well owner or operator shall comply with federal, state and local regulations concerning set-backs from structures and property lines.

6.7.1 All wells shall be constructed pursuant to the Water Well Construction Rules, 2 CCR 402-2 (September 1, 2016).

6.7.2 Any well constructed within two hundred (200) feet of the permitted location shall be deemed to be at the approved location provided it meets the well spacing requirements of this rule and any permit conditions.

6.7.3 Within the Denver Basin, no Extraction Well shall be located closer than one (1) mile to any point of contact between any natural stream including its alluvium and the outcrop/subcrop of the aquifer from which the water would be extracted.

6.8 Expiration of Permit to Extract Through the Construction of a New Well - A permit to extract through the construction of a new well shall expire one year after issuance unless, before the expiration and on forms as may be prescribed by the State Engineer, the Applicant to whom the permit was issued, or the well construction contractor, furnishes to the State Engineer evidence that the well was constructed and that the pump was installed or a written extension request. The written extension request shall provide good cause as to why the well has not been constructed nor the pump installed and an estimate of time necessary to complete the tasks, and a fee as specified in 37-90-137(3)(a)(II), C.R.S. Such permit may be extended for only one additional period, not to exceed one year.

6.9 Expiration of a Permit to Extract from an Existing Permitted Well - A permit to extract from an existing permitted well shall continue indefinitely so long as a valid permit is applicable to the

existing well through which the proposed Extraction will occur, and so long as the Applicant complies with the reporting requirements of Rules 9.6 and 9.7.

6.10 Existing Permit to Extract - Any approval to extract Artificially Recharged groundwater from a well in the Denver Basin, which approval was given prior to July 1, 1995 (the effective date of the original Denver Basin Extraction Rules), as evidenced by an unexpired well permit issued prior to that date, shall remain valid and shall continue to be administered under the terms and conditions of such unexpired permit. Any permit to extract Artificially Recharged groundwater from a well in the Denver Basin issued after July 1, 1995 but prior to the effective date of these rules shall continue to be administered under the terms and conditions of such unexpired permit and pursuant the Denver Basin Extraction Rules (1995).

Any approval to extract Artificially Recharged groundwater from Nontributary Groundwater Aquifers outside the Denver Basin aquifers, which approval was given prior to the effective date of these rules, as evidenced by an unexpired well permit issued prior to the effective date of these rules, shall remain valid and shall continue to be administered under the terms and conditions of such unexpired permit.

All new and replacement Extraction Well permits issued on or after the effective date of these rules are subject to these rules.

RULE 7 LIMITATIONS ON EXTRACTION

7.1 Extraction from a Confined Aquifer - Extraction of Artificially Recharged Water from a Confined Aquifer shall be through the same well through which the water was injected, or shall be through a remote site located within the same Contiguous Extraction Area, but in no case shall the Remote Extraction site be located more than five (5) miles from the farthest Injection site within the same Contiguous Extraction Area. If, prior to or during Extraction, the Confined Aquifer becomes an Unconfined Aquifer between any Injection site and the Remote Extraction site, as determined by the State Engineer, Extraction of Artificially Recharged Water from the Remote Extraction site shall be subject to the provisions of Rule 7.2 unless a variance is requested and granted pursuant to Rule 10. The variance request shall include an analysis of continued operation of the Extraction Well upon the change from a Confined Aquifer to an Unconfined Aquifer and the potential for material injury to all decreed rights and permitted or registered wells of record in the State Engineer's office allowing the withdrawal of water from the same aquifer owned by other parties, which are located within one (1) mile of the Extraction Well, or over a larger distance if requested by the State Engineer's office. The State Engineer's office may also require the Applicant to provide notice of the variance request to the owners of those wells and water rights. The analysis shall consider the hydraulic gradient between the Injection wells and the Extraction Well in the Unconfined Aquifer state. If the variance request is granted, the State Engineer's office may require the variance request be repeated at a future specified date based on potential changes to Unconfined Aquifer conditions.

7.1.1 No Remote Extraction Well withdrawing Artificially Recharged Water from a Confined Aquifer shall be located within the cylinder of appropriation, as calculated pursuant to Rule 4.A.7 of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7 (1986), for any Pre-213 Well owned by other than the Applicant, and authorized to withdraw water from the same aquifer, without the written permission of such person.

7.2 Extraction from an Unconfined Aquifer - Extraction of Artificially Recharged Water from an Unconfined Aquifer shall be through the same well through which the water was injected, or shall be through a remote site located down hydraulic gradient from the Injection site(s) and within the same Contiguous Extraction Area, but in no case shall the Remote Extraction site be located more than one thousand (1,000) feet from the farthest Injection site.

7.3 Amount of Artificially Recharged Water Available for Extraction - The maximum amount of Artificially Recharged Water that may be extracted from an aquifer through any one Extraction Well in any one calendar year shall not exceed five (5) times the maximum amount of water injected into that aquifer in any one (1) calendar year, and in no case shall the amount of water extracted exceed the total amount of water injected into that aquifer less any amounts previously extracted.

7.4 Banking - Artificially Recharged Water may be retained in the aquifer indefinitely by the person who has injected the water or the assignee of that person. Nothing in these rules shall limit the right of any person to withdraw Naturally Occurring groundwater which has been "banked" pursuant to Rule 8.A of the Statewide Nontributary Ground Water Rules 2 CCR 402-7, (1986) through a well permitted for the use of Naturally Occurring groundwater.

RULE 8 PERMIT AND DENIAL PROCEDURES

8.1 Owner's Signature - The owner or Designated Agent shall sign and date the permit application, certifying that the information set forth thereon is true to the best of the owner's or Designated Agent's knowledge.

8.2 Substitution of Forms - All applications and notices required by these rules shall be submitted on forms or through electronic methods as prescribed by the State Engineer.

8.3 Incomplete Forms - Permit applications and notices submitted without the required information, fees, or signature shall be returned as incomplete.

8.4 Distribution of Permits - The application and permit shall be preserved by the State Engineer to be useful in determining the extent of the uses made of Artificially Recharged Water. An electronic copy of the permit shall be provided to the Applicant.

8.5 Permit Denial - If the State Engineer is unable to approve a permit, the application shall be denied and the State Engineer shall state the reasons for the denial in writing. The application and the denial order shall be preserved by the State Engineer. An electronic copy of the denial shall be provided by the State Engineer to the Applicant. The effective date of the denial shall be the date an electronic copy is sent to the Applicant by the State Engineer.

8.6 Plugging of Wells with Expired Permits - All wells shall be plugged in accordance with the Water Well Construction Rules, 2 CCR 402-2 (September 1, 2016), within ninety-one (91) days after the permit to extract Artificially Recharged groundwater expires or is cancelled unless the permit is reinstated by the State Engineer, a new permit for the use of the well has been approved, or the well can continue to operate under another valid permit.

RULE 9 RECORDS AND REPORTING REQUIREMENTS

9.1 Certification - All reports, notices or applications shall be signed by the person responsible for the work performed or for making the claim, certifying the truthfulness and accuracy of the document.

9.2 Format of Reports - All application, notices and reports shall be submitted on forms or through electronic means as prescribed by the State Engineer.

9.3 Data Confidentiality - In the event that the information submitted falls within the purview of Section 24-72-204(3)(a)(IV), C.R.S. or other applicable statute allowing data to be kept confidential, and upon written request by the owner or Designated Agent, the State Engineer shall comply with the provisions of the applicable statutes.

9.4 Construction Reports - The licensed contractor or private driller shall maintain detailed records during the construction and completion of all Extraction Wells. The data to be reported and timing of report submission shall be that required under the Water Well Construction Rules 2 CCR 402-2 (September 1, 2016) and shall include a description of the Injection equipment installed.

9.5 Notice of Initiation of Extraction - The owner of a permit to extract Artificially Recharged Water or the Designated Agent shall submit a notice of initiation of Extraction on a form prescribed by the State Engineer, within sixty-three (63) days after commencing the first Extraction of Artificially Recharged Water.

9.6 Injection and Extraction Records - In order to quantify the Injection and Extraction, the well owner or operator shall maintain permanent records of the timing, types of water pumped through the well (Naturally Occurring water, banked water, or Artificially Recharged Water), location and amounts of water Injected and withdrawn, and any other information required by the State Engineer to administer the wells in a format prescribed by the State Engineer. These records shall be collected and maintained on a weekly basis and shall be submitted to the State Engineer by February 15 of each year for the preceding calendar year, unless more frequent reporting is required by the State Engineer.

9.7 Water Level Data - Prior to Extraction, all available water level data acquired by the Applicant in anticipation of the Extraction of Artificially Recharged Water must be submitted to the State Engineer. The State Engineer reserves the right to require more frequent measurements, but upon initiation of Extraction, the Applicant must submit a minimum of one measurement per month per injection well and extraction well. Measurements from a nearby monitoring well may be substituted upon approval of the State Engineer. All available water level data must be submitted to the State Engineer by February 15 of each year for the preceding calendar year, or alternatively, provided periodically throughout the year.

9.8 Geophysical Logs - Geophysical logs will be required for all newly constructed wells permitted pursuant to these Rules, in the manner described in the Statewide Nontributary Ground Water Rules 2 CCR 402-7 (1986).

9.8.1 The State Engineer may require the permittee to submit the geophysical well logs prior to the casing of the Extraction Well in order to determine the appropriate Extraction interval. In such case, the State Engineer will inform the permittee of the appropriate Extraction interval within two working days of receipt by the State Engineer of the geophysical logs.

9.8.2 Any downhole surveys not described in Rule 9.8, water quality data, aquifer temperature data, and the results of any flow and/or Injection test obtained during the construction of the well shall be submitted to the State Engineer's office within sixty-three (63) days of completing the well.

9.9 Supplemental Reports - The owner or operator shall furnish the State Engineer any information which the State Engineer may request to determine compliance with the permit.

RULE 10 VARIANCES

10.1 Written Requests - Variances to these rules may be granted by the State Engineer upon written request and a showing by the Applicant that the requested variance will comply with the intent of these rules to protect the public safety, health and environment, prevent injury to existing users of, and rights to withdraw water from the Denver Basin aquifers and Nontributary Groundwater Aquifers, and prevent the waste or contamination of surface water or groundwater.

10.2 Notice - If, in the interest of the public welfare, the State Engineer finds it necessary to require the Applicant to provide notice of request for variance to these rules, it shall be deemed to mean a publication in a newspaper of general circulation in each of the counties concerned or distribution to an electronic notification list, as specified by the State Engineer. The notice shall specify the rule for which the variance is being sought and state the reason for the request for a variance. All objections, either to the notice or the request for a variance shall be in writing and shall briefly state the nature of the objection and shall be filed within the time and at the place designated in the notice. The time for filing written objections to notices described in this rule shall extend to thirty-five (35) days following the last publication or distribution of the notice.

10.3 Written Response - The State Engineer shall respond in writing to a variance request in a reasonable amount of time stating the reasons for the decision and imposing conditions necessary to implement the intent of these rules. The State Engineer shall consider any written objections filed under Rule 10.2 in making his decision and his written response to the variance request shall constitute a final agency action for the purposes of any appeal.

RULE 11 EMERGENCIES

11.1 Notification and Approval - In the event of an emergency, new extraction well construction or extraction through an existing well may only be commenced after a well permit allowing such construction or extraction is obtained.

RULE 12 SEVERABILITY

If any portion of these rules is found to be invalid, the remaining portion of the rules shall remain in force and not be affected.

RULE 13 REVISIONS

These rules may be revised in accordance with Section 24-4-103, C.R.S.

RULE 14 STATEMENT OF BASIS AND PURPOSE

INCORPORATED BY REFERENCE

The Statement of Basis and Purpose for these Artificial Recharge Extraction Rules is incorporated by reference as part of these Rules.

The rules are hereby adopted and shall become effective 20 days after publication in the Colorado Register.

Dated this 14th day of May, 2018.

A handwritten signature in cursive script that reads "Kevin G. Rein". The signature is written in black ink and is positioned above a horizontal line.

Kevin G. Rein
Executive Director
Colorado Division of Water Resources