STATE OF COLORADO

OFFICE OF THE STATE ENGINEER
Division of Water Resources
Department of Natural Resources

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POLICY MEMORANDUM 93-2

SUBJECT: Feedlot and Dairy Operation Wells

The following standards are adopted as policy to provide for the consistent evaluation of requests to record existing wells and permit the replacement of wells used for feedlot and dairy operations. Only wells outside designated ground water basins are affected.

This policy becomes effective immediately and shall be modified or revoked only in writing.

1. Feedlot operations of 500 head or less with maximum annual water demand of less than 5 acre-feet established prior to May 8,1972, and where title of all the livestock is held by the well owner or the tenant farmer/rancher, and where the primary source of food for such animals is provided by the well owner's farming operations, shall be considered as watering of livestock on a farm or ranch use under the provisions of section 37-92-602 (1) (b) & (e) provided that the water from the well was in use for feedlot livestock watering prior to May 8, 1972, and meets the other limitations of said sections.

2. Dairy operations of 200 head of cows or less with a maximum annual water demand of less than 5 acre-feet established prior to May 8, 1972, and where title to all animals is held by the well owner, shall be considered as watering of livestock on a farm or ranch use under the provisions of section 37-92-602 (1) (b) & (e) provided that the water from the well was in use for dairy livestock watering prior to May 8, 1972, and meets the other limitations of said sections.

3. In either of the above cases, if necessary for administration by the Division Engineer, a totalizing flow meter shall be installed on the well and maintained in good working order by the well owner. Records of all diversions shall be maintained by the well owner (recorded at least annually) and reported to the Division Engineer upon request.

4. Variances to this policy may be granted by the State Engineer upon written request and justification by the applicant.

Hal D. Simpson
State Engineer

HDS/SPL/sl

CONSIDERATIONS AND BACKGROUND FOR POLICY MEMO 93-2

PROBLEM

There has been a suggestion from the agricultural community that certain livestock watering wells used in feedlot and dairy operations should be considered exempt wells. The State Engineer has generally considered the use of such wells as not being the watering of livestock on farms and ranches use exempted under the provisions of Sections 37-92-602 (1) (b) & (e).

The fact that such feedlot and dairy wells are not considered to be exempt under the above referenced statutes has caused some delays in obtaining permits to replace such wells when such wells do not hold permits or decrees indicating use for livestock watering. In addition, even if such wells were registered or decreed, they are considered subject to curtailment in the priority system and therefore cannot operate at all in some areas where rules require augmentation of depletions from wells.

DISCUSSION

The staff of the Division of Water Resources believes that the policy (unwritten) of considering feedlot and dairy operations as not being exempt uses originated with the changes in the statutes that created the current exemptions on May 22, 1971 and required evaluation for injury of applications for permits after May 8, 1972. It is believed that the state engineer made this decision after attending and testifying in hearings concerning the adoption of such provisions of the statutes. Research indicates that the hearing sessions in 1971 and 1972 were not taped, so verification of intent is not possible.

The use of a well in a feedlot or dairy operation can result in the diversion and consumptive use of significant quantities of water. In many cases there are thousands of head of cattle in feedlot confinements as where pasture and range livestock populations per well are usually quite small.

It is estimated that the average well used in rural areas for domestic residential purposes and the watering of some livestock on adjoining pasture or range diverts about 3 to 4 acre-feet per year. In comparison, 10 to 11 acre-feet would be required for watering 1000 head of livestock in a feedlot confinement and some feed lot confinements may have in excess of 10,000 head of cattle. A well, if exempted under 37-92-602 (1) (e) may have a capacity of 50 gallons per minute. If pumped 100% of the time, it could produce 80 acre-feet annually. Considering that livestock watering may be 100% consumptive, one 8,000 head feed lot might consume that 80 acre-feet which would not then be available for senior water rights in the stream system.

Adoption of a policy to clarify which feedlot and dairy wells fall within the exemptions will necessitate that the division engineer be able to administer such wells in accordance with the terms of the well permits. Although this administration may be in the form of determining the actual use of the water, there will be instances where the only way to determine compliance is with records of actual diversion from the well. Therefore, the division engineer may need to order the installation of a totalizing flow meter in order to properly administer the well. The division engineer may want to issue a separate order or have the installation of meter a term and condition of the issuance of the well permit.

SOLUTION

In order to minimize individual interpretations and to facilitate evaluation of applications, three options seem to be available.

1. Establish a policy that all feedlot and dairy wells are non-exempt wells subject to administration in the priority system.

2. Establish a policy that all feedlot and dairy wells with pumping rate limited to those specified in Sections 37-92-602 (1) (b) & (e), be exempt under said statute without other limitations.

3. Adopt standards for determining limitations on wells that would be considered to fall within the definition of watering of livestock on farms and ranches.

RECOMMENDATION

The third option appears to be the most reasonable since it can provide limits to the amounts of ground water that can be diverted out of priority for feedlot and dairy operations.

END