



DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATER RESOURCES

John W. Hickenlooper
Governor

Mike King
Executive Director

Dick Wolfe, P.E.
Director/State Engineer

January 14, 2011

POLICY MEMORANDUM 95-4 – AMENDED

SUBJECT: Late Recording of Exempt Wells pursuant to 37-92-602(5) and Small Capacity Wells pursuant to 37-90-105(4)(a)(II)

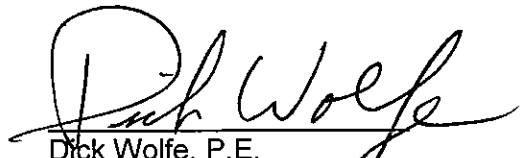
NOTE: This Policy, originally dated March 13, 1995 is amended January 14, 2011 by the addition of the underlined text. This policy shall be modified or revoked only in writing.

In regard to applications for late recording of wells under the provisions of 37-92-602(5) or 37-90-105(4)(a)(II) that fall within one or both of the criteria set forth below, the evaluation staff of the Division of Water Resources shall presume that the rights to such late recording of the wells or a portion of the uses of the wells have been forfeited or abandoned. The application shall be either denied or the permit limited to uses that have continuously occurred to within ten years of the date the applicant seeks to late record the well, whichever is appropriate.

1. The evidence indicates that the well has not been used for a period of at least ten years, or that a portion of the claimed uses have not been in place for a period of at least ten years.
2. The evidence indicates that the structure has not been operational or existed for a period of at least ten years.

In some cases, the well may be a non-exempt or large-capacity well that, in addition to its non-exempt/large-capacity uses, also historically pumped for exempt/small-capacity uses that would qualify for late registration. The well may have been curtailed at some point due to its owner deciding to not continue pumping the well in compliance with statutory or rule-related requirements for augmenting its non-exempt/large-capacity uses. The provisions of this policy shall not apply to any well that falls within the above-described criteria 1 or 2 if that well was under an order from the Division of Water Resources or the Ground Water Commission curtailing the use of the well. In such a case, the period of time during which the well was under the order shall be removed from consideration when applying the two criteria listed above to the evaluation.

Any denial or permit limited under this policy shall be accompanied by a cover letter advising the applicant of the denial or limitation and indicating that they can appeal such denial or limitations under the provision of the administrative procedures act. Such cover letter shall also advise the applicant if there may be conditions under which a new permit could be granted.


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