



POLICY 1993-1 AMENDMENT OR CORRECTION OF WELL LOCATIONS (AMENDED)

Objective

The following standards are adopted to provide for the consistent evaluation of requests to amend or correct the permitted locations of wells where the provisions of the statutes or rules do not directly address such amendment or correction. Well location amendments for wells permitted under the provisions of sections 37-90-105, 37-90-137, and 37-92-602, C.R.S., are addressed by this policy.

Policy

1. Any well with a permitted location that is within 200 feet of its actual location shall not require amendment or correction, although such locations may be amended upon the State Engineer's approval of an Application For Well Location Amendment¹ provided that such change would not violate any condition of approval of the well permit. **No fee is required for a change of this type.**
2. The permitted locations for wells with permits issued under the provisions of sections 37-90-105 or 37-92-602 and permitted/registered pursuant to applications received prior to May 8, 1972, or registered under the provision of sections 37-90-105(4) or 37-92-602(5), may be amended upon the State Engineer's approval of an Application For Well Location Amendment provided that such change would not violate any condition of approval of the well permit. **No fee is required for a change of this type.**
3. The permitted locations for wells with permits issued under the provisions of section 37-90-137, and permitted/registered prior to May 17, 1965, or registered under the provisions of section 37-90-139, may be amended upon the State Engineer's approval of an Application For Well Location Amendment provided that such change would not violate any condition of approval of the well permit or any term or condition of a decree associated with such well. **No fee is required for a change of this type.**
4. The permitted locations for wells with permits issued pursuant to applications received on or after May 8, 1972 under the provisions of sections 37-90-105 and 37-92-602, with a permitted location more than 200 feet from its actual location, may be amended upon the State Engineer's approval of an Application For Well Location Amendment, provided such change would not violate any condition of approval of the well permit. This provision may also be applied to valid permits for wells not yet constructed. **No fee is required for a change of this type.** Additional consideration for these types of amendments are described below:

¹ At the time of approval of this Policy 1993-1 amendment, the Well Location Amendment form is Form GWS-42. The form name/number may change if the form is converted to an online process.



- a. This policy does not allow for the amendment of a well location for permits issued under the provisions of sections 37-90-105 or 37-92-602, where the well location would be located on a site, tract, lot, or parcel other than the site, tract, lot or parcel that was statutorily required for the issuance of the well permit (“Encumbered Land”). Such a change would require an application for a new well permit.
 - b. This policy does not allow for the amendment of a well location for small capacity permits issued under the provisions of section 37-90-105, where the location of the well is limited based on a Ground Water Management District Rule, and the amended location is not in compliance with such limit.
 - c. The permitted well location for well permits issued for monitoring and observation purposes under section 37-90-105(1)(d) and 37-92-602(1)(f) may be amended under this policy.
 - d. Permits issued under the provisions of section 37-92-602(3)(b)(I) for a tributary aquifer in a non-overappropriated area do not encumber specific land and such wells may be moved to other parcels provided the requirements of this policy are satisfied and the modified location will not violate any condition of approval of the well permit (e.g. the well cannot be moved from a non-overappropriated area to an overappropriated area).
5. The permitted locations for wells with permits issued on or after May 17, 1965 under the provisions of section 37-90-137, with a permitted location more than 200 feet from its actual location, may be amended upon the State Engineer’s approval of an Application For Well Location Amendment provided that such change would not violate any conditions of approval of the well permit or any terms and conditions of a decree associated with such well. This provision may also be applied to valid permits for wells not yet constructed. Additional consideration for these types of amendments are described below:
- a. No fee is required for a change of this type if the well is permitted to serve an individual residential site and the permitted maximum pumping rate does not exceed fifteen gallons per minute such that 600-foot spacing was not considered in accordance with section 37-90-137(2)(b)(II)(C). **For wells that do not meet this requirement a fee is required.**
 - b. This policy does not allow for the amendment of a well location for permits issued under the provisions of section 37-90-137, where the well location would be located on a site, tract, lot, or parcel other than the site, tract, lot or parcel on which the well was proposed to be located as specified on the well permit or well permit application. Such a change would require an application for a new well permit.
 - c. If the corrected permitted location will be within 600 feet of existing wells, that existed at the time the original permit was granted, and were not considered at the time the original well permit was issued, the well owner must satisfy the 600-foot spacing requirement by obtaining waiver statements from the owner(s) of wells within 600 feet, or by complying with one of the options described in section 37-90-137(2)(b)(II)(A-E), before a well location amendment can be accepted.

- d. If the proposed well location amendment will result in the permitted location being more than 200 feet from the decreed well location, the location amendment may not be approved until the decreed location is changed by the water court, unless the State Engineer determines the well location amendment can be accepted without violating any condition of approval of the well permit, or any term and condition of the decree. Based on a case by case review, the State Engineer may choose to approve a well location amendment where the permitted location is more than 200 feet from the decreed well location, if an application for a change of decreed location is pending before the water court.
6. Approval of an amendment or correction of location by the State Engineer is not approval of a change of water right and the owner of any such well shall be advised to apply to the water court for correction of said location if a change in water right is required by court rules or statute, except for wells of the type described in 5d above where such an application is required prior to approval of the amendment or correction. If a well is located more than 200 feet from its decreed well location, such well may be administered as if it had no priority until the water court approves the change or correction in well location.
7. This policy does not apply to well permits issued under the authority of the Ground Water Commission, under section 37-90-107, C.R.S.
8. Clerical errors made in the issuance of any well permit by the State Engineer may be corrected at any time outside the requirements of this policy.
9. Variances to this policy may be granted by the State Engineer upon written request and justification by the applicant.
10. This policy describes situations where a fee is required due to the need for the Division of Water Resources ("DWR") to perform additional analysis to amend the location. The fee required for a well location amendment is the same as the fee required by statute for replacement well permits.

Approval

This policy may only be modified or revoked in writing by the State Engineer. This policy originally became effective July 7, 1993. It was amended on August 12, 2016. It was further amended on August 21, 2023 as described in the Consideration and Background section.



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State Engineer/Director

CONSIDERATIONS & BACKGROUND FOR GROUND WATER POLICY 1993-1

Problem

It can be difficult for persons applying for well permits to identify the location of their proposed well accurately. There are no provisions in any statutes or rules for amending well permits after their issuance. Incorrect proposed locations for wells can lead to consideration of the application under conditions that are not consistent with the actual geology, hydrology, or laws that should be applied in a particular instance. These shortcomings leave the staff without clear guidelines as to whether a permitted well location should be allowed to be amended without restriction or evaluation.

Discussion

This situation has been a problem since well permits were first issued by the State Engineer in 1957. Prior to the 1970s, some permitted well locations were amended simply by having the staff change the location entry on the original permit in red ink. It is unknown whether any standards for approving such changes were considered. At the time, that procedure did not result in many problems since most permits were being granted without consideration of injury to other water rights.

In the 1970s the process was changed to a system where a person who wanted to change the permitted location of an existing well simply submitted an "amendment of existing record" form to DWR. Generally, the well location changes on the form were entered into DWR's records without evaluation. If, in this same period, someone desired to change the location of a well that was permitted but not yet constructed, the procedure was to have them submit a letter requesting such change and approving such change by amending the well permit application and/or conditions of approval. It is generally unknown what standards were applied, if any, to such changes.

In the 1980s DWR realized that many wells were apparently located differently than the permitted locations. This often came to be known when an evaluation of an application, where it was indicated that the well would be the only well on a tract of land, disclosed a permitted well location on the same tract. In order to resolve the problems associated with these discoveries the staff advised persons who wanted or needed to change or correct the permitted location of a well to apply for a new permit, with appropriate filing fees, for the subject well. That application was then evaluated in accordance with the hydrologic conditions and the law at the time of its evaluation. Consequently, it was not always possible to obtain a permit for the same use as that permitted for the original well. In many cases the ownership of the well had changed many times since the original issuance of the well permit.

Permits for non-exempt wells granted prior to May 17, 1965, and permits for exempt and small capacity wells granted prior to May 8, 1972, were clearly not evaluated to determine if their issuance would injure any other water rights, and now requiring wells to be evaluated as new wells would be an unnecessary restriction. But, in the same regard, those wells that were evaluated for injury should not be automatically amended to new locations without some consideration of their effect on other water rights and wells.

Since the permit application requires the applicant to identify the well location, DWR is not generally responsible for the errors that need to be corrected or amended. There are costs to DWR associated with any action to correct or amend the location or any permitted well; however there is no specific law that addresses correcting or amending well locations or requiring a fee

for such action. Not charging a fee for amendments or corrections may result in the purposeful filing of applications with incorrect locations strictly for the purposes of avoiding delays that may result from having the correct location.

The amendment or correction of well locations most closely follows the concepts of well relocation or replacement as identified in sections 37-90-103(13), 37-92-602(3)(c) and 37-90-105(3)(d). Assessment of fees consistent with those required by statute for the relocation or replacement of a well may be appropriate.

Solution

In order to minimize individual interpretations and to facilitate amendment and correction of the records to reflect the proper location of wells, three options are available.

1. Allow uncontrolled amendment or correction of permitted well locations simply by filing an amendment of existing record request.
2. Require wells constructed at locations different from their permitted locations to obtain new well permits under today's standards.
3. Amend well permit locations when the permit will still be in compliance with permit conditions and without a fee when such amendment does not require an evaluation. When a well location amendment requires an evaluation, the applicant shall be subject to the same fee as required by statute for a permit to replace a well, which is likely to require a similar amount of effort from staff.

Recommendation

The third available option appears to be the most workable as it allows for consideration of injury in amending well locations where needed. It also provides for the assessment of fees for amending well locations, which is not overly burdensome on the well owners, but that will inhibit the filing of the frivolous applications. In addition, it allows persons with incorrectly located wells to maintain their historical use of the water provided a permit could have been granted at that location at the time the permit was originally issued.

Reasons for August 21, 2023 Amendment

This Policy was amended in August 21, 2023 to clarify that the Policy does not allow a party to amend the well location under this Policy if it would place the well on a lot other than the lot for which the well permit was originally issued.

The Policy was also amended to clarify when a fee is required and to limit fees to situations where an evaluation is required, recognizing the flexibility on well location allowed under Rule 6.2.3 of the Water Well Construction Rules. This amendment reduces the number of situations where a fee is required to encourage well owners to correct the permitted location of their well(s), to further improve the quality of location data on the Division of Water Resources' well database.