

Wildwood Living From an Old Timer

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By Delbert Bills

Legal Wildwood Water Decree

Many of you have asked questions over the years about our water rights, well drilling, aquifer reliability, and more. Fortunately, I have been involved with our water management continuously back to the time that the Developer (JAYLEN, INC.) turned the Homeowner Association over to the residents on the January 28, 1984. So I can shed a little insight in this area. Water interest is rather lengthy and will be covered in three parts.

By state law, a gallon of water pumped out of the aquifers(s) must be hydraulically replaced by pouring an equivalent gallon of water into the watershed stream from which it is drawn. The replacement water must be obtained from either senior or junior water rights from the snowmelt in the watershed. This whole process is called water augmentation.

Originally, the developer planned to use the spring water flow from our Chalcedony Spring (our fish pond) to offset the water drawn out of our wells. The first augmentation plan approved by the State Water Court and Park County Commissioners on August 22, 1978, allowed for 600 units (lots). Each unit would be allowed its own well. Of those 600 potential wells, only 50 would be allowed to water lawns and be limited to 2000 sq. feet each. It also allowed up to 90 horses to be pastured in the subdivision. Therefore an augmentation dam was built on Chase Gulch (fish pond) under State engineering specifications and had to be maintained under State of Colorado jurisdiction. I'll cover more on this situation later. However, the dam would not hold the necessary augmentation water due to seepage. Also the pressure built up from the backed up reservoir water shut down the Chalcedony Springs water flow to an insufficient amount. Subsequently a new plan of augmentation was finally drawn up and approved by the Water Court Judge, Water Division I, State of Colorado, and Case No. W-8574 (77), and filed by the State Water Clerk on September 9, 1983.

Many changes were made to make the final decree happen. The original range owner and decree applicant, Richard R. Helmick, who owned 2900 acres of land here, conveyed to JAYLEN, Inc., and JAYLEN in turn conveyed to the Owners Association* (for the benefit of the owners of each of the lots in the subdivision) all title and interest in the 1.25 c.f.s. of the Guiraud (pronounced Garro per District Water Commissioner Mark Cury) 3T Ditch water right (that being the water right that is the replacement water for this plan of augmentation) subject to the terms and limitations of this plan. In compliance with the original, as well as modified decree, 18.178 acres of irrigated land on the Middle Fork of the South Platte River was removed

from irrigation and monumented, that is legally dried up. The Owner's Association*, in accordance with the decree, developed and recorded protective covenants controlling the type of sewage disposal system as well as the terms and conditions upon which the owners may obtain permits and drill wells. (Note.* Owner's Association reference at that time was actually the Developer JALEN for legal purposes not the Wildwood Owner's Association Board.)

The final decree further stipulates that when fully developed, the 449 (down from 600) single-family residential equivalent units, the irrigation of twenty 2,000 square foot acreages, which are referred to as domestic wells (down from 50), and the presence of 90 horses are expected to consumptively use 16.46 acre feet per year rather than the 22.27 acre feet specified in the original decree. Consumptive use between May 1 and September 30 will be limited to 7.70 acre feet and between October 1 and April 30 will be limited to 8.76 acre feet of water. I will cover wells and well permits in my third water resources management article.

The Owners Association* and JAYLEN entered into a lease arrangement with the City of Colorado Springs for storage space and water in Montgomery Reservoir (Just south and below Hoosier Pass) sufficient to satisfy out-of-priority depletions caused by the Owners Association's use of water. The decree further stipulates that the lease agreement with the City of Colorado Springs provides for the sale of water to the Owners Association in event that not enough Guiraud 3T water has been stored and made available for release. The Owner Association* and JAYLEN, then conveyed to the City of Colorado Springs the 1.25 c.f.s. of Giuraud 3T Water Right to the limit of 27.27 acre feet. In turn, The City of Colorado Springs will release the necessary amount of water in May and October to the South Platte River, the amount of water consumed by the Association members. In the event that the consumption is less than the amount of our stored water right, the City may dispose of, or use that water as the City deems advisable at the City's sole discretion. (The amount to be released will be reported annually by the Association in April of each year and will be released by the District Water Commissioner.)

The amount of water that the Owners Association is obligated to replace annually, at full development, is now 16.46 acre feet and we can store the 27.27 acre feet of our water right, if 1.25 c.f.s. of water is available in excess of Aurora's water right when in priority, in Montgomery Reservoir for \$1000 per year. (This equates to \$2.23 per lot per year). The City of Aurora has a senior right but this is little concern to us for the for-see-able future and well beyond. We only consume about two acre feet at the present time and our growth is only about one or two homes certified for occupancy per year.

There are numerous other legal stipulations covered in the extensive decree that I will not delve into in my article. The legal documents are available in the Sate of Colorado Water Court and Park County Book 359, page 71.

Several years ago the then District Water Commissioner who had firsthand knowledge about our Chalcedony Spring flow and water case told me that the Wildwood subdivision has one of the best legal water rights and water situation in Park County. Just as an aside, several years ago I picked up a sales brochure from the South Park Ranches adjacent to the south of Wildwood. Buried in the fine print was a note that well water permits may not be available in that development.

Also as a note of interest, several years ago a few residents and some members of the then Board, challenged the water storage rental fee and wanted to sell the “apparent” excess water rights in excess of the final obligation. This was apparent because we are not guaranteed the 1.25 c.f.s water flow right which in turn was conveyed to the City of Colorado Springs. Legal opinion and the then District Water Commissioner determined that the Wildwood water case as described above is legally locked in under State Water Court jurisdiction and is tamper proof. In the final decree dated September 9, 1983 in “The Conclusions of Law,” Book 359, 77, Article 11, “The Court retains jurisdiction under C.R.S. 1973, S37-92-304(6) for five years from the date that two hundred twenty-five (225) single family residences are built under this plan to reconsider whether the provisions of this decree are adequate to prevent injury to the vested water rights of the objectors or in the interests of the State of Colorado in administration of the water rights.” That will be way beyond most our lifetimes. Water rights are “golden” in our western states and where I grew up in eastern Idaho. This situation was why I have personally maintained a close interest in our water rights over the years.

So in keeping with our legal water decree and augmentation plan, our Wildwood Association is obligated to make a very detailed report of the water that is pumped out, and projected to be pumped out, of the aquifer by Wildwood residents annually. That report is provided to the State Water Engineer and District Water Commissioner. The report details the amount of water (per a specified set of formulae) consumed in summer and in winter. This report directs the District Water Commissioner to release the appropriate amount of augmentation water from storage in Montgomery Reservoir into the South Platte River. I have always interfaced with the Association Board and developed the data for the annual report.

I have endeavored to give you a layman’s view of a very complicated legal water rights decree. I hope it provides an overview and some answers to some of your questions.

Del Bills is a 28 year Wildwood resident; past Board president; liaison with the state water engineer and district water commissioner; was instrumental in extending power through filings one and two; electrical engineer; long time Boy Scout master; and a pioneering boyhood heritage with an intense interest in nature. You can contact him at www.delbertbills@msn.com.