

Well Permits, Water Report and Wells

This is the third and final article of the three part series on our water decree and water resource management.

The augmentation plan went through several modifications from the original in 1977 to the final decree that is filed in Park County book 359 pages 71-97. Attempts were made by the developer to update the associated protective covenants to keep pace with the legal modifications. One can find some conflicting disparities in the covenants regarding the water rights as I will point out. However, the final decree is the basis of law and trumps subsequent disparities found elsewhere.

The original covenants, executed 7/11/1978 were filed in Book 282 page 475 and another dated 8/19/1978 was filed in Book 286 page 406. Covenants for Filing 2 were dated 8/15/1988 and filed in Book 314, page 493. Filing 3 covenants were dated 8/9/1988 and filed in Book ????. The covenants for filing 4 were dated 10/3/1983 and filed in Book 360, page 375. Filing 4 covenants most closely match the legal description of the final decree. The decree and covenants for filing 3 specifically exempts owners in that filing from the augmentation decree but does require application for well permits from the State Water Engineer without reference to the decree.

The final modified decree specifically provides that there will be a limit of 449 lots allowed under the decree in the Wildwood subdivision. It should be noted here that filing three is not subject to the decree since those lots and our caretaker lot are over 35 acres. Of those 449 lots, 429 are legally allowed to apply for a well permit for household use only of water. Only one well per lot may be permitted. Twenty lots are allowed to apply for a well permit for domestic use of water. Further definition states that: "These are the only types of permits that will be granted for the drilling of wells on the property." "Those property owners obtaining domestic well permits will be limited to not more than 2000 square feet of lawn and/or garden area to be irrigated from such well, along with a normal household use." Those lot owners obtaining household use-only well permits are not allowed any external use of water such as irrigation of lawn and gardens, nor are they allowed outside hydrants for watering domestic animals.

Unfortunately, some covenants still state the original number of 50 domestic wells and 550 household use only wells for a total of 600 wells. Another disparity arose over the watering of horses.

This may be confusing. However the possibility of provisions that are contrary to judgment or order of the court are addressed in Article 26 of the original covenants, Book 206 page 412, which makes it clear that the final decree shall be adhered to . We (Board) made an attempt to clarify the covenants of such disparities at one time. However, article 24, also on page 412, requires that, "... sixty-five percent of lots which are subject to these covenants may change or modify any one or more of them, except those which deal with the use of water or sewage disposal systems, which are controlled by court decree..." We failed to get even close to 65% of the lot owners to get involved with the effort to clean the covenants up so our effort failed.

The final decree added the consumptive use of 90 horses to the depletion equations and capped the total number at ninety. Article 2 of the decree, Book 359, page 74 states, "...members of that association shall be allowed to water horses from their wells with the limitation that no well shall be used to water over five horses, and at no time shall there be over 90 horses kept in the subdivision." I specifically have to report the number of horses being kept in the subdivision, so those owners should keep the Board advised of that obligation. In another reference, article 2 under Conclusions of Law, the water judge states that the State Engineer shall not curtail diversions through any of the wells used to provide domestic livestock watering and in-house-use-only water service. So the Board has a responsibility of reporting the number of livestock which I would include as "horses" in the annual report to the State Water Engineer.

There are several things that the Board is responsible for:

- The Owners association shall be liable for the regulation and enforcement of the conditions of the decree.
- This includes among others, the obligatory storage rental fee of \$1000 annually to the City of Colorado Springs.
- They must supply to the State engineer annually, a status report as outlined in the decree.
- The Board must supply the State Engineer with the name, address and telephone number of the individual from the Owner's Association who shall be responsible for making such report. (that is currently myself)
- The Owners Association shall report to the Division Engineer any violation of this plan of augmentation.

The annual report formulae allows 80 gallons per person per day; 10 gallons per horse per day, and domestic consumption of 0.0689 acre feet per each (summer use only) of the 20 domestic wells. The gallons are translated to acre feet of water consumed and calculated individually for summer and winter depletions. Considerable judgment must be applied since many of the homes are occupied seasonally; only homes with a certificate of occupancy are reported; RV residents with generator pumps or hand pumps deplete water that is not reported, etcetera.

My annual status report for 2008 liberally estimated a depletion of 1.1378 acre feet of water against an allowable depletion of 16.46 acre feet. By decree and agreement, the City of Colorado Springs is allowed to use the surplus for its own use at its discretion. I used in my calculations, 34 homes with certificates of occupancy for summer and 4 during winter. I have counted up to 6 horses in the past but was unaware of any livestock for the 2008 report. Also, although there are 20 domestic wells permitted, I use only 10 for the report since many of the domestic well owners are occasional users.

There are a number of well drilling companies in the area. The driller knows the permit process and will file the necessary paper work; permit request, casing record; sustained pump yield etcetera. Every well permitted specifically refers to Division One Water Court Case No. W-8574.

Once a well has been permitted and drilled (one per lot only) it remains on the records of the State Water Engineer identified specifically to an individual owner. A Colorado law was passed in 1995 that requires that owners of water wells in Colorado report changes in name and address (ownership) to the state engineer to update their well permit files. To obtain the required form, write to the Colorado Division of Water Resources, 1313 Sherman St., Room 818, Denver, CO 80203 or call 303-866-3581 and ask for Form GWS-11, the change in well ownership.*

As a matter of information and fact, I met with Mr. Rich Bell at the above mentioned Division of Water Resources on 5-18-93 and verified that the twenty allowed and permitted Domestic wells in the Wildwood Subdivision were as follows:

<u>Name</u>	<u>Filing/Lot</u>	<u>Well Permit #</u>
Adamcyk	2/288	28585-F
Bennett	4/404	29090-F
Baush	4/440	34707-F

Berry	4/382	34737-F
Bills	2/274	39092-F
Boshen	4/441	34736-F
Brown	1/182	116009
Conner	4/370	29259-F
DiDiminico	4/361	29453-F
Frey	1/104	114574
Kettleson	1/82	113858
Moeller	4/443	28590-F
Neu	4/396	29447-F
Ormsby	1/198	125865
Parkinson	1/162	113857
Patton	1/26	125854
Schumacher	1/69	126564
Simpson	4/354	36269-F
Vestal	4/428	36403-F
Williams	1/148	113633

TOTAL 20

*I note that several of the above twenty domestic wells have changed ownership from the original verification on 5/18/93 with the State Water Resources Division and current (new) owners should take steps to bring their well records up to date.

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.delbertbills127@msn.com.