

## MEMORANDUM

February 7, 2013

To: Senate Agriculture, Natural Resources and Energy Committee  
House Agriculture, Livestock and Natural Resources Committee

From: Richard Brown and Frederick A. Fendel, III  
Town of Bennett / Strasburg Sanitation and Water District

*Re: Senate Bill 72 - Final Permitting of Denver Basin Wells in Designated Basins*

Well permitting in the designated basins falls under the 1965 Ground Water Management Act, CRS §§37-90-101, *et seq.* Beginning in 1965, upon application by the user, the Ground Water Commission issued conditional well permits allowing specified quantities of water. Final permits were to follow, based on the actual amount of water used in the first three years following issuance of the conditional permit. In some basins, final permitting proceeded as planned.

Bennett and Strasburg are in the Kiowa-Bijou designated basin. In the Kiowa-Bijou, final permitting is underway now, 47 years after the Ground Water Management Act. Some of our wells are over 50 years old. Current law seems to require that our wells be limited to the amounts used in the first three years of their existence, 45 - 50 years ago.

For many categories of users, that is not a problem. Most irrigation wells, for example, are still used today to irrigate the same field they have always irrigated. The amount used has not changed, and what is needed today is the same as what was needed many years ago. For many municipal systems on the plains, final permitting is similarly not a problem, as demand today is less than or similar to what it was back then.

It's a different story for Bennett & Strasburg. In I-70 corridor, where both are located, there has been substantial population growth and growth in water use. Both project substantial additional population in next generation or so. If Bennett's & Strasburg's water rights are cut back to levels of 45 years ago, it will impose substantial hardship on the utilities, on their customers, and potentially on surrounding areas. If final permitting had been completed in the 1960's or early 70's, these towns could have acquired additional water as their needs grew. It is far more expensive today to replace existing supplies.

Both Bennett and Strasburg rely primarily on deeper Denver Basin ground water rights. More Denver Basin wells are expensive. The trend is toward renewable water, which means either importing water from far away (even more expensive) or buying existing irrigation rights & drying up nearby farms. That of course is possible, but probably not desirable.

We therefore propose a legislative solution: for Denver Basin wells not yet finally permitted, no final permit will be required, i.e., your conditional permit is your final permit. We already do that for Denver Basin wells issued after 1991. (A result of amendments in 1992 to

CRS §37-90-108(2)(a) and (d) and (3)(a)(I) and (II).) SB 72 would conform the treatment of earlier wells to the treatment of later wells.

Outside of designated basins, municipal water utilities may appropriate water for future growth & grow into their rights over time. Inside basins, municipal wells that do not yet have final permits would likely be cut back to the level of use in their first three years. It's a different problem than for irrigation rights, and requires a different solution.

Why not simply make a rule that applies to municipal wells? In negotiations with representatives of ground water management districts and agricultural users, we came to agreement on this approach. Applying a new rule only to Denver Basin wells avoids carving out an exception for towns that would compete with irrigators. Almost all irrigation wells are from the shallow alluvial aquifers, not from the deeper Denver Basin aquifers. Therefore, the proposed change won't hurt irrigators – we are simply not competing for same water supply. We believe this approach has a better chance to avoid controversy.