Rainwater Collection in Colorado

Colorado water law declares that the state of Colorado claims the right to all moisture in the atmosphere that falls within its borders and that "said moisture is declared to be the property of the people of this state, dedicated to their use pursuant" to the Colorado constitution. According to the constitution, water must be appropriated according to priority of appropriation. As a result, in much of the state, it is illegal to divert rainwater falling on your property expressly for a certain use unless you have a very old water right or during occasional periods when there is a surplus of water in the river system. This is especially true in the urban, suburban, and rural areas along the Front Range. This system of water allocation plays an important role in protecting the owners of senior water rights that are entitled to appropriate the full amount of their decreed water right, particularly when there is not enough to satisfy them and parties whose water right is junior to them.

New Law Allowing Rainwater Collection in Colorado

Senate Bill 09-080, which was passed by the General Assembly and signed by the Governor during the 2009 legislative session, allows limited collection and use of precipitation for landowners, only if:

1. The property on which the collection takes place is residential property, and
2. The landowner uses a well, or is legally entitled to a well, for the water supply, and
3. The well is permitted for domestic uses according to Section 37-92-602, C.R.S., (generally, this means the permit number will be five or six digits with no "-F" suffix at the end), and
4. There is no water supply available in the area from a municipality or water district, and
5. The rainwater is collected only from the roof, and
6. The water is used only for those uses that are allowed by, and identified on, the well permit.

If you do not meet, at a minimum, ALL of the above criteria, then the change in the law does not affect you and the current restrictions on collecting rainwater still apply. The new law becomes effective July 1, 2009. The Division of Water Resources will provide forms and additional guidance for those who plan to collect precipitation from their rooftops as soon as they can be developed. Until then, if you have questions, they may be answered below. If your question is not answered below, please submit your questions to the "e-mail questions" link at the bottom of our home page and we will address your question as soon as possible.

******(New Section, July 1, 2009)******

Instructions for Complying with SB-080, Rooftop Precipitation Capture

1. If you have an existing permitted well or unexpired well permit issued pursuant to Section 37-92-602 or 37-90-105, C.R.S., (this statute number will be identified in the conditions of approval on your well permit); and, you intend to use a system of rooftop precipitation capture, complete Form No. GWS-78, available on the Division of Water Resources website at http://www.water.state.co.us/. Be sure to review the instructions that accompany form GWS-78 to ensure it is properly filled out. There is no filing fee for Form No. GWS-78 in this situation. If you don't know whether your existing well is permitted, or if you are uncertain whether your type of permit qualifies and you need

assistance in determining this, you may complete and submit the online "Find My Well Permit Request Form" on the website. After reviewing the forms you've submitted, the Division of Water Resources will mail confirmation of the approval to you. If the well was in use prior to May 8, 1972, it is possible that it has not been issued a permit. Therefore,

2. If you have an existing unpermitted well that was in use prior to May 8, 1972, for those uses described in Sections 37-92-602(g) or 37-90-105(f), C.R.S., and you intend to include a system of rooftop precipitation capture, complete Form No. GWS-78 and Form No. GWS-12, Registration of Existing Well. The filing fee for Form No. GWS-12 is $100. There is no filing fee for Form No. GWS-78 in this situation. You must review the instructions for completing Form No. GWS-12 prior to submitting it to determine if you will also need to complete and submit Form No. GWS-12-A, Statement of Historical Uses, or contact the Division office in which your well is located to request a field inspection for verification of the well's existence and uses. After reviewing the forms you've submitted, the Division of Water Resources will mail confirmation of the approval to you.
3. If you are applying for a permit to construct a well to be used for domestic uses, and you intend to use a system of rooftop precipitation capture, complete Form No. GWS-44, Residential Water Well Permit Application, and Form No. GWS-78. The filing fee for Form No. GWS-44 is $100. There is no filing fee for From No. GWS-78 in this situation.
4. If you do not intend to construct a well, but want to install a rooftop precipitation capture system, complete Form No. GWS-78 and Form No. GWS-44, Residential Water Well Permit Application, in order that the Division of Water Resources can determine whether your property is entitled to the issuance of a well permit. The filing fee for this form is $60. There is no filing fee for Form No. GWS-44 in this case since a permit to construct a well will not be issued. After reviewing the forms you've submitted, the Division of Water Resources will mail confirmation of the approval to you.

******(End of New Section, July 1, 2009)******

Frequently Asked Questions

Question: I have checked my valid well permit and it states that the use of my well is limited to household uses. Can I collect rainwater and snowmelt from my roof and use it to water a very small vegetable garden in the backyard or in a greenhouse? How about for my hot tub?

Answer: No, water for a vegetable garden outside the home or in the greenhouse is not an ordinary household use and it consumes the water in a way that is inconsistent with the permitting statutes. The use of the precipitation in this case is limited to drinking and sanitary uses inside the home. This same answer applies to using the water for a hot tub, it is not allowed in this permitting situation.

Question: Since I'm trying to conserve and cut back on the use from my water supplier, am I allowed to collect precipitation for watering my landscaping and to fill a decorative pond?

Answer: No. First, because you receive your water supply through a tap from a water supplier, you may not collect precipitation at all. The changes in Senate Bill 09-080 apply only to residential properties that are supplied by a well (or could qualify for a well permit). Second, you will not be able to use the precipitation you've collected to fill a pond since that use would not be allowed on the appropriate well permits.

Question: What if I meet the six criteria above and, although legally entitled to a well permit, I have a remote property where a well cannot be drilled, or I just want to live without a well, relying on precipitation collection. Can I still take advantage of the new law?

Answer: Yes. If you are legally entitled to a well permit, you may submit an application. The Division of Water Resources will issue a permit that entitles you to collect rooftop precipitation collection for limited uses without actually constructing a well. But remember, if you live in an area where service is provided by a water supplier, this statute does not apply and you cannot collect the precipitation as allowed by the statute. The Division of Water Resources will make these forms available to you before July 1, 2009, the effective date of the new law.

Question: I have checked my valid well permit and it identifies the allowed uses for my well. I would like to collect precipitation from my roof for those uses only. Do I need to take any other action?

Answer: Yes, you must complete a form that will provide notice to the Division of Water Resources that you intend to collect the precipitation and describe how you intend to do it. The Division of Water Resources will make these forms available to you before July 1, 2009, the effective date of the new law.

Question: I will be applying for a permit for a new well for a home I'm building. I have researched and found that with my anticipated permit type, I will be able to collect precipitation from my rooftop. What do I need to do?

Answer: The well permit application form for new wells will include a checkbox that allows you to indicate that you plan to collect the precipitation and an attached form will give further instructions. The Division of Water Resources will make these forms available to you before July 1, 2009, the effective date of the new law.

Question: I am a developer and would like to develop a subdivision with large scale collection of precipitation from impervious surfaces even though the subdivision will have a central water supply system. How does this new law help me?

Answer: The new law under SB 09-080 does not apply to your situation at all. Your situation would benefit from HB 09-1129, a new law that allows developers to apply for approval to be one of ten statewide pilot projects that harvest rainwater and put it to beneficial, but non-essential, use in the subdivision. These projects may only operate according to an engineered plan, submitted to the State Engineer for approval and eventually, to the Water Court. This new law does not apply at all to individual homeowners.