

CHAPTER 50

WATER AND IRRIGATION

HOUSE BILL 95-1151

BY REPRESENTATIVES George, Entz, Schwarz, Swenson, and Taylor;
also SENATORS Bishop, Dennis, Norton, and Wattenberg.

AN ACT

CONCERNING UNDERGROUND WATER SOURCES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 37-90-103 (21), Colorado Revised Statutes, 1990 Repl. Vol., is amended to read:

37-90-103. Definitions. As used in this article, unless the context otherwise requires:

(21) (a) "Well" means any structure or device used for the purpose or with the effect of obtaining ground water for beneficial use from an aquifer.

(b) "WELL" DOES NOT INCLUDE A NATURALLY FLOWING SPRING OR SPRINGS WHERE THE NATURAL SPRING DISCHARGE IS CAPTURED OR CONCENTRATED BY INSTALLATION OF A NEAR-SURFACE STRUCTURE OR DEVICE LESS THEN TEN FEET IN DEPTH LOCATED AT OR WITHIN FIFTY FEET OF THE SPRING OR SPRINGS' NATURAL DISCHARGE POINT AND THE WATER IS CONVEYED DIRECTLY BY GRAVITY FLOW OR INTO A SEPARATE SUMP OR STORAGE, IF THE OWNER OBTAINS A WATER RIGHT FOR SUCH STRUCTURE OR DEVICE AS A SPRING PURSUANT TO ARTICLE 92 OF THIS TITLE.

SECTION 2. 37-90-137 (2), Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended to read:

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits.

(2) (a) Upon receipt of an application for a replacement well or a new, increased, or

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

additional supply of ground water from an area outside the boundaries of a designated ground water basin, accompanied by a filing fee of sixty dollars, the state engineer shall make a determination as to whether or not the exercise of the requested permit will materially injure the vested water rights of others.

(b) (I) If the state engineer finds that there is unappropriated water available for withdrawal by the proposed well and that the vested water rights of others will not be materially injured, and can be substantiated by hydrological and geological facts, the state engineer shall issue a permit to construct a well, but not otherwise; except that no permit shall be issued unless the location of the proposed well will be at a distance of more than six hundred feet from an existing well, but if the state engineer, after a hearing, finds that circumstances in a particular instance so warrant, the state engineer may issue a permit without regard to the limitation specified in this subsection (2).

(II) IF THE STATE ENGINEER NOTIFIES THE OWNERS OF ALL WELLS WITHIN SIX HUNDRED FEET OF THE PROPOSED WELL BY CERTIFIED MAIL AND RECEIVES NO RESPONSE WITHIN THE TIME SET FORTH IN THE NOTICE, NO HEARING SHALL BE REQUIRED.

(III) The hearing requirement shall not apply to wells located less than six hundred feet from existing wells if the proposed well will serve an individual residential site and the proposed pumping rate will not exceed fifteen gallons per minute.

(c) The permit shall set forth such conditions for drilling, casing, and equipping wells and other diversion facilities as are reasonably necessary to prevent waste, pollution, or material injury to existing rights.

(d) (I) The state engineer shall endorse upon the application the date of its receipt, file and preserve such application, and make a record of such receipt and the issuance of the permit in his office so indexed as to be useful in determining the extent of the uses made from various ground water sources.

(II) The state engineer shall act upon an application filed under this section within forty-five days after its receipt.

SECTION 3. 37-91-102 (16), Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended to read:

37-91-102. Definitions. As used in this article, unless the context otherwise requires:

(16) (a) "Well" for the purpose of this article means any test hole or other excavation that is drilled, cored, bored, washed, fractured, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, monitoring, dewatering, observation, diversion, artificial recharge, or acquisition of ground water or for conducting pumping equipment or aquifer tests.

(b) (I) "Well" does not include certain types of monitoring and observation wells, dewatering wells, and test holes that the board specifies in rules and regulations in order to allow for their construction, utilization, and abandonment by other than a

well construction contractor, nor does such term include an excavation made for the purpose of obtaining or prospecting for minerals or those wells subject to the jurisdiction of the oil and gas conservation commission, as provided in article 60 of title 34, C.R.S., or those wells subject to the jurisdiction of the office of mined land reclamation, as provided in article 33 of title 34, C.R.S.

(II) "WELL" DOES NOT INCLUDE A NATURALLY FLOWING SPRING OR SPRINGS WHERE THE NATURAL SPRING DISCHARGE IS CAPTURED OR CONCENTRATED BY INSTALLATION OF A NEAR-SURFACE STRUCTURE OR DEVICE LESS THEN TEN FEET IN DEPTH LOCATED AT OR WITHIN FIFTY FEET OF THE SPRING OR SPRINGS' NATURAL DISCHARGE POINT AND THE WATER IS CONVEYED DIRECTLY BY GRAVITY FLOW OR INTO A SEPARATE SUMP OR STORAGE, IF THE OWNER OBTAINS A WATER RIGHT FOR SUCH STRUCTURE OR DEVICE AS A SPRING PURSUANT TO ARTICLE 92 OR THIS TITLE.

SECTION 4. 37-92-103, Colorado Revised Statutes, 1990 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

37-92-103. Definitions. (14) (a) "WELL" MEANS ANY STRUCTURE OR DEVICE USED FOR THE PURPOSE OR WITH THE EFFECT OF OBTAINING GROUND WATER FOR BENEFICIAL USE FROM AN AQUIFER.

(b) "WELL" DOES NOT INCLUDE A NATURALLY FLOWING SPRING OR SPRINGS WHERE THE NATURAL SPRING DISCHARGE IS CAPTURED OR CONCENTRATED BY INSTALLATION OF A NEAR-SURFACE STRUCTURE OR DEVICE LESS THEN TEN FEET IN DEPTH LOCATED AT OR WITHIN FIFTY FEET OF THE SPRING OR SPRINGS' NATURAL DISCHARGE POINT AND THE WATER IS CONVEYED DIRECTLY BY GRAVITY FLOW OR INTO A SEPARATE SUMP OR STORAGE, IF THE OWNER OBTAINS A WATER RIGHT FOR SUCH STRUCTURE OR DEVICE AS A SPRING PURSUANT TO ARTICLE 92 OR THIS TITLE.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 7, 1995