



State Engineer's Office

HERSCHLER BUILDING, 4-E CHEYENNE, WYOMING 82002
(307) 777-7354 FAX (307) 777-5451
seoieg@seo.wyo.gov

DAVE FREUDENTHAL
GOVERNOR

PATRICK TYRRELL
STATE ENGINEER

MEMORANDUM

To: Ground Water Division Employees
From: Lisa Lindemann, Administrator *LL*
Date: October 25, 2007
Subject: Assignment of water rights for wells associated with energy development projects

A large number of wells have been drilled throughout the state over a period of several decades that are associated with energy development projects.

Wells have been drilled to produce energy directly (such as a Coal Bed Methane well), or to supply water for the construction of energy supply wells (such as a water supply well used to provide the water necessary for the construction of an oil or natural gas well), or to supply water for the enhanced production of energy supply wells (such as a water flood water supply well).

In the majority of these instances, the actual wells are drilled on lands owned or controlled by private individuals, Wyoming state government, or the federal government. These types of wells have a somewhat limited lifespan, and at some point, the entity responsible for the energy production may wish to "turn over" the well to a landowner or governmental entity for their future use. The process of "turning over" these types of wells typically involves the sale or gift of the well bore and in some cases, an associated pump and piping to a landowner or governmental entity.

Water rights are controlled by those entities that own or control the point of use of the water from the well. If the State Engineer's Office has issued a permit for the right to the use of the water from the well, it is believed by all parties that the transfer of the well bore will also result in the transfer of any water right that may be associated with the well. However, in most instances this is not the case, as the point of use of the water is typically not within the well bore, and these water rights should not be assigned to the entity that has acquired the well bore.

In some cases, the lands on which the water use for energy production has been or is occurring are owned by the entity that has acquired the well bore. In this case, the water right should only be assigned to the entity that has acquired the well bore if either one of the following conditions exist:

- A. The permit was issued for energy production related purposes only, and the entity that has acquired the well bore intends to continue to use the water as permitted.
- B. The permit was issued for energy production related purposes and an additional use, such as stock use on lands owned by the entity that has acquired the well bore, and will be used for the additional use in the future.

If the situation is as described in item B, except in those cases where the permit reverts to the additional use, the entity responsible for the energy production should request elimination of the energy production type of use and reduction of the flow rate shown on the permit to that amount which will be produced in the future. Since the pumping equipment is typically removed from the well upon transfer of the well bore, the entity to which the permit has been assigned should also provide updated information concerning the pump that they have installed so that our records can be updated.

In the special case of a Coal Bed Methane well, where the actual beneficial use of the water is occurring within the well bore, the ground water permit should only be assigned to the entity that has acquired the well bore if either one of the following conditions exist:

1. The permit was issued for Coal Bed Methane use only and the entity that has acquired the well bore intends to actively produce Coal Bed Methane natural gas in the future.
2. The permit was issued for Coal Bed Methane use and an additional use, such as stock use on lands owned by the entity that has acquired the well bore, and will be used for the additional use in the future.

If the situation is as described in item 2, except in those cases where the permit reverts to the additional use, the entity responsible for the energy production should request elimination of the energy production type of use and reduction of the flow rate shown on the permit to that amount which will be produced in the future. Since the pumping equipment is typically removed from the well upon transfer of the well bore, the entity to which the permit has been assigned should also provide updated information concerning the pump that they have installed so that our records can be updated.

If the entity that has acquired the well bore does not intend to use the well for energy production related purposes and the permit was not issued with an associated use, the entity responsible for the energy production should request that the water right be cancelled, and the entity that has acquired the well bore should re-file for a permit to appropriate ground water for whatever purpose they choose.

It should also be understood that if a well bore has been used for energy extraction, such as a Coal Bed Methane well, oil well, or natural gas well, the entity that acquires the well bore assumes liability for the proper care, potential contamination of the ground water resource, and ultimately for plugging the well according to Wyoming Oil and Gas Conservation Commission (WOGCC) standards unless the energy production zone within the well bore has been properly sealed according to WOGCC regulations.