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Policy Memorandum

To: State Engineer's Office, Ground Water and Surface Water Administrators

From: Pat Tyrrell, State Engineer

Date: November 1, 2010 

Re: Issuance of Temporary Water Use Agreements (TWUAs) in Ground Water Control Areas
- Revised (This Policy Memorandum supersedes and replaces the Policy Memorandum
issued February 12, 2010)

The recent increase in requests for TWUAs using water wells within established Ground Water Control Areas (GWCAs) has caused us to revisit what should be appropriate requirements for their issuance. Part of this concern stems from the receipt of agreements that purport to make use of a water right for a well that has scant or no recent historic use under its permit (typically irrigation). One of the requirements of W.S. 41-3-110 is that "Only that portion of a water right so acquired which has been consumptively used under the historic use made of the water right, may be diverted by a temporary user." While this clearly applies to all TWUAs, this policy memo focuses on its application to GWCAs with their known ground water supply concerns. Another condition of water right transfers that must be considered is the determination of how the TWUA is offset by a reduction in use at the source well (transparency of the activity).

Unless and until superseded by a revision to this policy, the following are effective on the date signed above, and will apply to TWUAs issued after that date:

- 1 This policy applies only to wells in established GWCAs.
- 2 TWUAs will only be issued for wells where irrigation activity can be documented in the past 5 years, either through inspection of aerial photography or through the provision of other documentation such as power records or water meter readings.

- 3 Installation of water flow meters, and periodic (normally weekly) reporting of quantities used, will be required on all TWUAs issued hereunder. A backflow prevention device is required at the wellhead for all TWUAs. Before water can be produced and sold under any TWUA, required water flow meters and backflow prevention devices must be in place and functioning.
- 4 TWUAs so issued will require the applicant (or landowner of the well implicated in the TWUA) to provide the SEO with a map¹ showing which historically-irrigated acres will be removed from irrigation for the duration of the TWUA. Removed acres will be calculated assuming 1 AF/acre of historic consumption. For example, an application requesting 5 AF in temporary water use per year must be accompanied by a map or aerial photo detailing 5 permitted, and historically irrigated, acres which will not be irrigated for the duration of the TWUA. The applicant may submit, and the SEO will consider, data demonstrating a higher per-acre consumptive irrigation use than 1 AF/acre, which may reduce the number of acres required to be removed from irrigation.
- 5 There are no season of use restrictions on TWUAs issued in Ground Water Control Areas.
- 6 TWUAs issued using wells which are not permitted for irrigation use (as the source water right), will be conditioned depending on the documented historic volumetric use and seasonal characteristics of the well.

¹ The map need not be a new, certified map. It can be a marked-up copy of the original permit map, or an aerial photograph with scale shown.