



October 25, 2018

Ambrose, Pete  
Po Box 1421  
Fairplay, CO 80440

You are receiving this letter because our office has identified a discrepancy between your current well permit and the Water Court Decree in Case No. 08CW0147 for your well (Well Decree). This discrepancy must be resolved in order to allow for the proper administration of your well.

Your Well Decree adjudicated an underground water right for your well and contains specific language that requires the well to be operated pursuant to the terms and conditions of the augmentation plan approved in Case No. W-7389, dated October 1, 1973.

The plan for augmentation decreed in Water Court Case No. W-7389 is now operated by Bar Star Water, LLC (Bar Star).

You have chosen to opt out of the Bar Star plan for augmentation and recently joined one of the plans for augmentation operated by the Headwater Authority of the South Platte (HASP) decreed in Division 1 Water Court in Case Nos. 02CW0389 and 12CW0050. Subsequently, you were issued a new well permit requiring the well to be operated in accordance with the HASP plan for augmentation. This requirement in your new well permit contradicts the requirement of your Well Decree to operate in accordance with Case No. W-7389. Unfortunately, a well permit cannot contradict a decree of the Water Court and this discrepancy must be resolved.

In order to allow proper administration of your well, you will need to rectify the discrepancy between your Well Decree and well permit. I'm not an attorney and cannot offer legal advice, however, I can suggest the following alternatives that could resolve this discrepancy.

1. Petition the Water Court to vacate your Well Decree, which will abandon the water right for your well and remove the legal requirement to be a part of the plan for augmentation decreed in Water Court Case No. W-7389, currently operated by Bar Star. You may accomplish this by using the Water Court's Application Form "JDF 299 W - Application For Change of Water Right" found at the following link:  
<https://www.courts.state.co.us/Forms/PDF/JDF%20299W%20Application%20for%20change%20of%20water%20right.pdf>  
Once the Water Court has vacated your Well Decree, your new well permit would remain unchanged as it is and, other than complying with the HASP plan for augmentation requirements, there would be nothing further needed on your part.
2. File an application to the Water Court to amend your Well Decree to remove the language requiring the well to only be operated pursuant to the terms and conditions of the augmentation plan approved in Case No. W-7389, dated October 1, 1973. You can file this application with the Division One Water Court using Application Form "JDF 299 W - Application For Change of Water Right" found at the following link:  
<https://www.courts.state.co.us/Forms/PDF/JDF%20299W%20Application%20for%20change%20of%20water%20right.pdf>  
Once the Water Court has decreed this change, your new well permit would remain unchanged as it is and, other than complying with the HASP plan for augmentation requirements, there would be nothing further needed on your part.



3. The third option that might be available to you is to opt out of the HASP plan for augmentation and rejoin the Bar Star plan for augmentation. This will require that you apply for another new well permit that allows continued operation under the W-7389 augmentation plan, not the HASP plan for augmentation. Once you have confirmed with Bar Star that your well is included under their plan for augmentation, AND you have followed HASP's process to opt out of their augmentation plan, your existing well permit will be canceled and a new permit will be issued (you must apply for new well permit). This option keeps your Well Decree unchanged and operation in accordance with your existing Well Decree can continue.

This letter is not offering legal or engineering advice, and I recommend you seek legal counsel regarding these matters. Many of the options above require the filing of forms with the Water Court and may require the filing of motions or other legal documents.

Acting on one of the above alternatives to rectify the discrepancy between your existing well permit and your Well Decree will allow our office to administer your well in accordance with all relevant court rulings. We request that you diligently pursue one of the above actions to rectify this situation no later than December 31, 2018 and notify this office which alternative you are choosing to pursue.

Please feel free to contact me should you have additional questions or concerns. I appreciate your diligent efforts in resolving these issues.

Sincerely,

A handwritten signature in blue ink that reads "Corey DeAngelis".

Corey DeAngelis, P.E.  
Division Engineer, Division 1

ec: Kevin Rein, State Engineer  
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