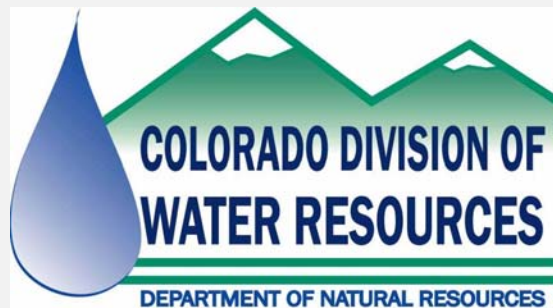


**ANNUAL REPORT OF
ACTIVITIES PERFORMED
BY THE
STATE ENGINEER'S OFFICE
IN 2005**



**To Satisfy Requirements
of Senate Bill 89-181
Regarding Water Quality**

INTRODUCTION

According to the provisions of Senate Bill 89-181 (SB-181), the Colorado Division of Water Resources, the State Engineer's Office (SEO), has been assigned as one of the agencies responsible for implementing the water quality standards and classifications adopted by the Colorado Water Quality Control Commission (WQCC). The SEO will implement water quality standards and classifications only where water quality statutes other than the Water Quality Act require the SEO's involvement. This report provides an update on the activities undertaken by the SEO and its Division offices to accomplish its responsibilities pursuant to the provisions of SB-181 in calendar year 2005.

According to our past experience, few major water quality related problems actually fall within the jurisdiction of the SEO. However, the SEO takes a proactive stance in this matter by cooperating with other agencies and organizations in the development of comprehensive and practical solutions for managing the quantity and quality of the state's waters.

There are three major areas where the SEO exercises its authority on implementing water quality standards and classifications. These are:

- Adoption of points of compliance for discharges to ground water
- Approval of substitute water supply plans and non-decreed water exchanges
- Adjudication process of plans for augmentation including water exchanges

A. Points of compliance for discharges

The SEO ensures that well construction activities do not result in a pollution discharge to state waters through well permitting activities. All wells must be constructed in accordance with the rules and regulations established by the State Board of Examiners of Water Well Construction and Pump Installation contractors (BOE). Domestic and commercial water wells are constructed by licensed well drillers. Monitoring and recovery wells can be constructed either by licensed drillers or under the supervision of professional engineers and geologists. The BOE will take corrective actions against the drillers who violate the rules for proper well construction including suspension or revocation of their licenses. The well owners have the ultimate responsibility to bring the improperly constructed well into compliance. Otherwise, the State Engineer may order the well plugged and abandoned to prevent contamination of ground water.

In 2005, the BOE investigated 82 new complaints and resolved 67 complaints. The Board imposed penalties, which included the suspension or revocation of two licenses and one letter of admonition or reprimand. In addition, staff processed 178 requests for variance and infiltration gallery plans, licensed a total of 309 contractors, including 12 new contractors, and conducted oral examinations for new licenses.

The *Well Observation Program* reported in years past was replaced with a *Well Inspection Program*, authorized by the legislature in Senate Bill 03-45 and funded by a \$40 increase in well permit application fees. Presently, the program consists of a Chief Well Inspector headquartered in Denver and four well inspectors distributed throughout the state. The Chief Well Inspector will coordinate the activities of the program and provide additional

support to the Board. The primary objective of the program is to assist the Board with the enforcement of its rules and regulations for well construction and pump installation. The personnel of the Well Inspection Program are a welcome addition to the State Engineer's support staff for the activities of the Board of Examiners.

The SEO ground water evaluation staff received and acted upon 8,931 new well permit applications in 2005. Of this total, 443 were emergency applications for replacement wells. The majority of the wells were to be used for domestic purposes. In addition, the SEO acknowledged 1,161 notices to drill monitoring wells¹. Many of the monitoring wells are used for monitoring ground water quality. The SEO can request water quality data from the applicants when necessary.

B. Substitute Water Supply Plans and Non-Decreed Water Exchanges

Substitute water supply plans provide water users the flexibility of exchanging and replacing out-of-priority depletions on an interim basis or, if the applicant was to continue such operation permanently, until a court approved plan for augmentation is obtained. For approval of substitute water supply plans, the State Engineer requires that the quality of the substituted water meet the requirements of use to which the senior appropriators have normally put. The SEO reviewed and acted upon 209 general substitute supply plans (including emergencies) and 59 substitute water supply plans related to gravel pits. The majority of these substitute supply plans used river water as the source of substituted water. In addition, the SEO approved one emergency substitute water supply plan to provide drinking water to municipalities and other water suppliers to alleviate public health and safety concerns in Colorado.

The non-decreed exchanges generally do not involve written approval. They are limited to daily or seasonal basis and require the local water commissioner's approval prior to exchange occurring. The water commissioners keep records of these exchanges in the diversion records for the structures involved. The exchanged water usually comes from reservoirs or from bypassing stream diversions. Seldom has an applicant used treated wastewater or other supplies in a non-decreed exchange. Therefore, the water used in these exchanges generally does not create any water quality problems.

C. Decreed Exchanges and Plans for Augmentation

The SEO may oppose applications to Water Court for augmentation plans and exchanges in which the substituted water does not meet the requirements of use to which the senior appropriators have normally put. The SEO generally does not participate in Water Court cases where the parties who are directly impacted can be expected to raise concerns with respect to water quality issues. However, the SEO will become involved in two instances.

¹ Applicants are required to notify the SEO before constructing monitoring wells. These wells should be plugged and abandoned within one year unless a specific use permit for each well is obtained.

First, where there are exchanges involving treated wastewater, the SEO requires the exchanged water be of a quality that meets the requirements of use to which other vested water rights have normally been put or meet the existing water quality standards for discharges to the receiving stream. Second, the SEO, in administering water decrees, will become involved with issues of water quality where water quality monitoring is made a part of the decree by the Water Judge. The Water Judge has the ultimate responsibility to determine the adequacy of water quality when approving new water right applications, plans for augmentation, or exchange plans.

D. Other Activities

The staff at the SEO and its Division offices cooperated with several public and private agencies and participated in various forums where water quality and quantity issues were considered. Staff at the SEO play an important role by providing input and advice on the impacts of proposed water policies and regulations on the water using community.

The State Engineer continues to meet quarterly with other DNR agencies, WQCD managers, representatives of the Department of Agriculture, and various board members from WQCC and CWCB to discuss improved coordination on water quality and quantity issues.

The SEO received two consultation requests from the Water Quality Control Commission during 2005. The first request addressed the concerns of one party (the City of Grand Junction) about possible water rights impacts attributable to proposed changes in temperature standards that were part of WQCC's Rulemaking Hearing for Consideration of Revisions to Basic Standards and Methodologies for Surface Water (Regulation #31), held on June 13, 2005. The consultation reply was sent to WQCC on May 30, 2005.

The second request was related to WQCC's Rulemaking Hearing for revisions to water quality standards for the Eagle River that was held on December 12, 2005. Prior to the hearing, the party that had raised the concern over water rights that would have required the consultation decided to refrain from actually requesting the consultation, so we did not formally respond.

Staff attended meetings throughout the year that were held by several different groups involved with water quality.