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To: Park County Planning Department
Re: Wells Types and Allowed Uses for Grow Operations

The purpose of this memo is to provide the Park County Planning Department with information regarding the types of wells that are allowed under Colorado State law and the regulations and policies of the Colorado Division of Water Resources. There are essentially five types of wells under Colorado law, they are as follows:

1. Domestic Exempt under 35 Acres after May 8, 1972: § 37-92-602(1)(b),(3)(b)(II)(A), C.R.S.
 - a. The property is under thirty-five (35) acres in size.
 - b. The well is the only well on the property unless other wells on the property are augmented.
 - c. The pumping rate cannot exceed fifteen (15) gallons per minute.
 - d. Only allowed for ordinary, indoor household use in one single-family dwelling. No outside or commercial use is allowed.

2. Domestic Exempt over 35 Acres after May 8, 1972: § 37-92-602(1)(b),(3)(b)(II)(A), C.R.S.
 - a. The property must be thirty-five (35) acres or larger.
 - b. The well is the only well on the property unless other wells on the property are augmented.
 - c. The pumping rate cannot exceed fifteen (15) gallons per minute.
 - d. Allowed uses are ordinary household use inside up to 3 single-family dwellings, irrigation of up to one (1) acre of domestic lawn and garden (non-commercial), fire protection, non-commercial domestic animal watering, and poultry and livestock watering.

3. Domestic Exempt prior to May 8, 1972: § 37-92-602(2), C.R.S.
 - a. The well must have been in use prior to May 8, 1972 and continually in operation until present.
 - b. An affidavit setting forth proof of use of the well prior to May 8, 1972 must be provided prior to approval of a permit.
 - c. The well is the only well on the property unless other wells on the property are augmented.
 - d. The pumping rate cannot exceed fifteen (15) gallons per minute.
 - e. Allowed uses are ordinary household use in up to 3 single-family dwellings, irrigation of up to one (1) acre of domestic lawn and garden (non-commercial), fire protection, non-commercial domestic animal watering, and poultry and livestock watering.

4. Commercial Exempt: § 37-92-602(1)(c), C.R.S.
 - a. The well is the only well on the property unless other wells on the property are augmented.
 - b. The Pumping rate cannot exceed fifteen (15) gallons per minute.
 - c. Allowed uses are for drinking and sanitary facilities in an individual commercial business. No outside use or any form of irrigation use is allowed.
 - d. There is no other source or water supply system that can serve the property.
 - e. Site must have been established prior to June 1, 1972 or must be exempt from the definition of a subdivision pursuant to § 30-28-101(10)(c), C.R.S. For subdivisions approved after June 1, 1972, the recommendations made in the water supply review process will be honored. Groundwater will be approved only for the aquifer approved during the review process and will be restricted to one aquifer only.
 - f. Diversions cannot exceed 1/3rd acre-foot annually. Proof must be provided that this amount will not be exceeded prior to approval of a well permit.
 - g. Consumptive use must not exceed 10% of diversions.

- h. Return flows must be made back to the same stream system so as not to injure any vested water rights. Septic tanks and non-evaporative leach fields are presumptively satisfying of this requirement.
 - i. Must be metered.
5. Non-Exempt: § 37-90-137(9)(c.5), C.R.S.
- a. Much more flexible as far as allowed amounts and uses.
 - b. Required to have a judicially approved plan for augmentation before approval of permit.
 - c. Allows for more than one well on the property including the allowance of exempt wells if the exempt well requirements as discussed above are met.

Conclusions and recommendations:

Water needed for a medical or recreational grow operation will be deemed to be a commercial use if the grow operation is located within a greenhouse and if the irrigation occurs outside, it will be considered to be irrigation use, not commercial.

Of the above 5 types of wells, with one exception, only Well #5 (the augmented well), can be used to grow a crop for either a medical or recreational grow operation.

The one exception is that if the medical crop is purely for personal use, then Wells # 2, 3 and 5 can be used as the water source to grow the plants. If any portion of the medical crop is to be sold to clients of the medical grow operation, then only #5 (the augmented well) may be used. The recreational grow operation must use Well #5 (the augmented well).

The Commercial Exempt Well (#4) above cannot be used for any type of irrigation or to grow any crop (whether the water use is located inside or out). A commercial exempt well can only be used as the water supply for the office, bathroom(s), kitchen, etc..., inside a commercial medical or recreational grow operation.