

**OFFICE OF THE STATE ENGINEER**

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Department of Natural Resources

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## POLICY MEMORANDUM 94-3


**SUBJECT:** Applications for Permits to Construct Wells into Not Nontributary aquifers Prior to Court Approval of a Plan for Augmentation.

This Policy becomes effective immediately and shall be modified or revoked only in writing.

Applications for permits to construct wells which would withdraw not nontributary ground water from the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers under the provisions of C.R.S. 37-90-137(4), which are received in this office prior to court approval of a plan for augmentation replacing the depletions caused by the proposed diversion of not nontributary ground water shall be denied. The basis for denial shall be that, lacking a court approved plan for augmentation, the proposed use will cause injury to existing water rights.

### CONSIDERATIONS AND BACKGROUND FOR POLICY MEMO 94-3

In the past, this office has issued permits to construct wells which would be completed in not nontributary Denver Basin Bedrock aquifers. The permits, when issued, contained a Condition of Approval which stated that the well or wells could not be pumped unless included in a court approved plan for augmentation. Issuance of well permits of this type created a potential for abuse of the well permitting process and added an unnecessary administrative burden to the duties of the Division Engineer and Water Commissioner. Further, there does not appear to be any statutory basis supporting the approval of requests for permits to construct well for withdrawal not nontributary ground water prior to court approval of a plan for augmentation, and the Attorney General's office has advised the State Engineer that wells of this type cannot be pumped under authority of an approved Substitute Supply Plan. Therefore, there appears to be no justification to approve applications of this type prior to court approval of a plan for augmentation covering the proposed wells.

  
Hal D. Simpson  
State Engineer