From: Amy Clark [mailto:Clark.Amy@epamail.epa.gov]
Sent: Wednesday, August 08, 2012 10:26 AM
To: Rein, Kevin
Subject: Re: FW: Storm water

Thanks Kevin. Here is Mr. Allen's water right question and my attempt at an answer. Please edit as you see fit. Thanks again!

> 1. How much does Colorado's prior use law limit what can be done to treat/hold/reuse stormwater in Colorado?

>> – Colorado's prior appropriation law generally has minimal impact on stormwater management in Colorado. Colorado's water law allows stormwater to be detained and infiltrated; however, there are some stipulations on how this can be done.
>> – Colorado's State Engineers Office has a policy which requires that 72 hours after the end of a storm, stormwater be allowed to "flow downstream to existing water right holders."
>> – Therefore, detention is allowed if after 72 hours after a storm event, the water is allowed to flow downstream. However, the detained water is not allowed to be used for beneficial use. This is a difference between Colorado and some other western States.
>> – The same is true for infiltration. After 72 hours, any remaining stormwater which did not infiltrate must be allowed to flow downstream.
>> – Albeit, there are still a few limitations with stormwater management in Colorado. In particular, total retention and rainwater harvesting is generally not allowed. Total retention is the holding of water and not allowing it to be discharged (e.g. no outlet from a basin). Rainwater collection/harvesting is only allowed in certain situations which most residents in urban areas would not qualify for (see State Engineer's website and Senate Bill 09-080 for more information). See HB 09-1129 which also allows developers to apply for approval as a rainwater harvesting pilot project.

Amy Clark
EPA Region 8
1595 Wynkoop St.
Mail Code: 8P-W-WW
Denver CO, 80202
303.312.7014 (office)
800.227.8917 Ext.7014 (toll-free)
303.312.6116 (fax)

"Rein, Kevin" ---08/08/2012 09:47:37 AM---Amy,

From: "Rein, Kevin" <Kevin.Rein@state.co.us>
To: Amy Clark/R8/USEPA/US@EPA
Date: 08/08/2012 09:47 AM
Subject: FW: Storm water

Amy,

FW: FW: Storm water
Rein, Kevin
to:
Amy Clark
08/08/2012 10:47 AM
Hide Details
From: "Rein, Kevin" <Kevin.Rein@state.co.us>

To: Amy Clark/R8/USEPA/US@EPA

2 Attachments

graycol.gif Stormwater kgr.docx

Amy,

Thank you for taking on Mr. Allen's questions. It's too bad you were put on the spot to answer some things that are more in our realm. I copied his question and you answers into a Word document so I could mark a few changes(see attached). Some of those changes look somewhat nuance-like, I'm, sure, but hopefully you'll see why I made them. Please feel free to contact me with more questions and again, I appreciate your willingness to take on these questions in the context of stormwater management BMPs.

Thanks,

Kevin

Kevin G. Rein, P.E.
Deputy State Engineer
Colorado Division of Water Resources
1313 Sherman Street Suite 818
Denver, CO 80203
303-866-3581 ext. 8239 (office)
303-358-3022 (mobile)

To whatever extent this is helpful, here is the e-mail I sent to Arthur. Thanks again for being a part of this.

Kevin

Kevin G. Rein, P.E.
Deputy State Engineer
Colorado Division of Water Resources
1313 Sherman Street Suite 818
Denver, CO 80203
303-866-3581 ext. 8239 (office)
303-358-3022 (mobile)

.**From:** Rein, Kevin
Sent: Tuesday, July 31, 2012 8:38 AM
To: artnews@earthlink.net
Subject: Storm water

Dear Arthur,

I've attached our position on storm water management. Below is a link to a guidance document on precipitation collection and a link to the Criteria and Guidelines document for the the rainwater harvesting pilot projects, found on the Colorado Water Conservation Board website.

http://water.state.co.us/DWRIPub/Documents/DWR_RainwaterFlyer.pdf

http://cwcbweblink.state.co.us/WebLink/ElectronicFile.aspx?docid=142162&searchid=c25573eb-f1b7-4b8c-9810-6dd02adee4e2&dbid=0

Please contact me if you have additional questions.

Sincerely,

Kevin G. Rein, P.E.
Deputy State Engineer
Colorado Division of Water Resources
1313 Sherman Street Suite 818
Denver, CO 80203
303-866-3581 ext. 8239 (office)
303-358-3022 (mobile)

[attachment "Storm Water.docx" deleted by Amy Clark/R8/USEPA/US]

1. How much does Colorado's prior use law limit what can be done to treat/hold/reuse stormwater in Colorado?

   – Colorado's ~~constitutionally-based~~ prior appropriation ~~doctrine that guides water administration~~ law generally has minimal impact on stormwater management in Colorado ~~when it comes to reasonable efforts to *treat* or *hold* stormwater. However, it does significantly impact efforts to *reuse* stormwater. The Colorado State Engineer's administration~~ ~~Colorado's water law~~ allows stormwater to be detained and infiltrated; however, there are some stipulations on how this can be done.

   – ~~The~~ Colorado's State Engineer's ~~Office~~ ~~administration allows onsite detention of stormwater~~ ~~has a policy which~~ ~~but~~ requires that 72 hours after the end of a storm, stormwater be ~~allowed~~ ~~released~~ to "flow downstream to existing water right holders."

   – Therefore, detention is allowed if after 72 hours after a storm event, the water is ~~allowed~~ ~~released~~ to flow downstream. However, the detained water is not allowed to be used for beneficial use. This is a difference between Colorado and some other western States.

   – The same is true for infiltration. After 72 hours, any remaining stormwater which did not infiltrate must be ~~allowed~~ ~~released~~ to flow downstream.

   – Albeit, there are still a few limitations with stormwater management in Colorado. In particular, total retention and rainwater harvesting is generally not allowed. Total retention is the holding of water and not allowing it to be discharged (e.g. no outlet from a basin). Rainwater collection/harvesting is only allowed in certain situations which most residents in urban areas would not qualify for (see State Engineer's website and Senate Bill 09-080 for more information). See HB 09-1129 which also allows developers to apply for approval as a rainwater harvesting pilot project.