



RE: Stormwater Infiltration Question

Amy Clark to: Rein, Kevin

12/13/2010 02:13 PM

Cc: Alexis Wade, Connie Bosma, Debora Clovis, Holly Galavotti, Chris Montague-Breakwell

Kevin - Thanks for the statement from the SEO. EPA has a few follow-up questions and was wondering if you might be able to have a call to clarify a few things. Looking at EPA's calendar, we might need to talk after the holidays. Some dates/times that work for us are:

Wednesday, 1/5 at 1 pm
Thursday, 1/6 at 9, 11, or 2
Wednesday, 1/12 at 1pm

Thank you again for providing the statement. We really appreciate it.

Amy Clark
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303.312.6116 (fax)

<http://www.epa.gov/region8/water/stormwater>

Send me an e-mail if you would like to receive updates related to stormwater permits, BMPs, and NPDES regulations.

"Rein, Kevin"	Dear Amy, Below you will find a statement that...	12/10/2010 11:24:07 AM
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From: "Rein, Kevin" <Kevin.Rein@state.co.us>
To: Amy Clark/R8/USEPA/US@EPA
Cc: Alexis Wade/DC/USEPA/US@EPA, Debora Clovis/DC/USEPA/US@EPA, Holly Galavotti/DC/USEPA/US@EPA, Connie Bosma/DC/USEPA/US@EPA
Date: 12/10/2010 11:24 AM
Subject: RE: Stormwater Infiltration Question

Dear Amy,

Below you will find a statement that describes the Division of Water Resources' approach to administering efforts to manage storm water runoff. This is intentionally narrow in that it addresses runoff from an "individual site." Obviously, things get much more complex as we administer drainages that receive storm water from multiple locations. I hope this helps and feel free to follow up with additional questions.

Sincerely,

Kevin G. Rein, P.E.
Assistant State Engineer
Colorado Division of Water Resources
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EPA-BAFB-0000683

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"This statement applies to the Division of Water Resources' administrative approach for storm water management of precipitation that falls on an individual site. For the purposes of this statement, an individual site is defined as a discrete area that is undergoing one development effort. This statement clarifies the Division of Water Resources' administrative approach but the allowances in the administrative approach do not grant a water right or offer protection from a claim of material injury by a water user.

Storm water management is commonly achieved by means of detention and/or infiltration structures which may have the effect of adversely affecting vested water rights. Whether individual site storm water management is to be accomplished by means of a detention facility, an infiltration facility, or a facility that incorporates both detention and infiltration, the ideal is that precipitation that falls on an individual site should be dispersed from the surface of the individual site at the same rate as would have occurred prior to development on the site. Meeting this ideal does not entitle any party to divert or consume water added to the ground water or surface water supply due to a reduction in pre-development consumption by vegetation, unless such diversion or consumption is done in priority.

Precipitation that falls on a site and results in overland flow that becomes concentrated in the natural terrain or manmade drainages on the site may be directed to detention areas on the site. The detention areas must release all of the water detained from the site within 72 hours of the end of a precipitation event. Such detention should be designed to release the water from the site as quickly as downstream conditions allow and should minimize consumption from vegetation. The water may not be diverted from the detention area for any beneficial uses.

In addition, precipitation that falls on a site and results in overland flow that becomes concentrated in the natural terrain or manmade drainages on the site may be directed to infiltration areas on the site. The infiltration areas must be designed to infiltrate the water into the underlying aquifer for the purposes of managing the storm water quality and volume of discharge of precipitation that fell on the site. An infiltration area must be designed to infiltrate the water as quickly as possible and shall not result in an exposed water surface beyond 72 hours after the end of a precipitation event. An infiltration area must be designed to minimize consumption from vegetation. The water may not be diverted from the infiltration area for any beneficial use. The water that infiltrates shall be treated as tributary ground water and is a public resource, subject to appropriation through the prior appropriation system.

These are administrative allowances that allow storm water to be managed while minimizing the impact to water rights. These allowances cannot be applied to precipitation that falls onto an area not on the individual site."

-----Original Message-----

From: Clark.Amy@epamail.epa.gov [mailto:Clark.Amy@epamail.epa.gov]
Sent: Tuesday, November 09, 2010 2:30 PM

EPA-BAFB-0000684

To: Rein, Kevin
Cc: Wade.Alexis@epamail.epa.gov; Clovis.Debora@epamail.epa.gov;
Galavotti.Holly@epamail.epa.gov; Bosma.Connie@epamail.epa.gov
Subject: RE: Stormwater Infiltration Question

Kevin - Thank you for trying to clarify the State Engineers Office (SEO) position on infiltration of stormwater and any "statement" you can provide EPA would be greatly appreciated. I understand this is not a simple task. Please let me know if you have any questions. Thanks again.

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<http://www.epa.gov/region8/water/stormwater>

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From: "Rein, Kevin" <Kevin.Rein@state.co.us>
To: Amy Clark/R8/USEPA/US@EPA
Cc: Debora Clovis/DC/USEPA/US@EPA, Alexis Wade/DC/USEPA/US@EPA
Date: 11/09/2010 01:55 PM
Subject: RE: Stormwater Infiltration Question

Amy,

The confusion does not surprise me since I know that I've been ambiguous at best. The reason for the ambiguity is that Colorado water law is rigid and could be taken to be so rigid as to be preclusive of any development. Yet we know that land will be developed and there is a resulting need to manage storm runoff. On top of that, there is some case law that keeps us from applying a strict engineering approach. Therein lies our need to apply the law in a way that satisfies all of the concerns.

I realize that none of the above is any more helpful than anything I told you before. I will work on a clear "statement" that addresses your questions and get concurrence from the State Engineer and some of our Division Engineers that it is compliant with all of our administrative responsibilities.

Thanks, I hope to get back to you in the next couple of days.

Sincerely,

Kevin

Kevin G. Rein, P.E.

EPA-BAFB-0000685

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-----Original Message-----

From: Clark.Amy@epamail.epa.gov [mailto:Clark.Amy@epamail.epa.gov]
Sent: Monday, November 08, 2010 3:59 PM
To: Rein, Kevin
Cc: Clovis.Debora@epamail.epa.gov; Wade.Alexis@epamail.epa.gov
Subject: Stormwater Infiltration Question

Kevin - Thanks again for taking the time to meet with us a few weeks ago. As we are comparing notes, it appears that some people remember hearing that infiltration of stormwater is allowed if the purpose is stormwater management without regard to a infiltration time limit and others remember hearing that the infiltration must occur within 72 hours and any water that does not infiltrate would need to be able to discharge. Could you please clarify if the SEO has a position on this matter? Thanks again.

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