



**Fw: query on Stormwater issue**  
Amy Clark to: Rein, Kevin

08/14/2012 09:24 AM

Kevin - Thanks for reviewing and correcting my answers. Attached below is the response I sent to Mr. Allen. Thanks again!

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)

----- Forwarded by Amy Clark/R8/USEPA/US on 08/14/2012 09:21 AM -----

From: Amy Clark/R8/USEPA/US  
To: Arthur Allen <arthurallenw@aol.com>  
Date: 08/10/2012 10:39 AM  
Subject: Re: query on Stormwater issue

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Mr. Allen - Attached is my response to your questions. I apologize that I am unable to answer your first question. However, I have listed my EPA contact who is better suited at providing you a response. She was in training all this week but is back next week, I believe. Please let me know if you have any questions. Thank you.

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)

-----Arthur Allen <arthurallenw@aol.com> wrote: -----  
To: Amy Clark/R8/USEPA/US@EPA  
From: Arthur Allen <arthurallenw@aol.com>  
Date: 08/07/2012 06:51PM  
Subject: Re: query on Stormwater issue

I'm hoping to write the story up Thursday. Could you send me some answers in writing, and then I'll follow up if I need more?

thanks very much!

Arthur Allen  
freelance writer, Washington DC  
author, *Vaccine: the Controversial Story of Medicine's Greatest Lifesaver* (WW Norton, 2007); *Ripe: The Search for the Perfect Tomato* (Counterpoint, 2010)

**EPA-BAFB-0000772**

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

From: Amy Clark <Clark.Amy@epamail.epa.gov>  
To: Arthur Allen <arthurallenw@aol.com>  
Sent: Tue, Aug 7, 2012 5:14 pm  
Subject: Re: query on Stormwater issue

Mr. Allen - Thank you for the information. I think I understand what you are asking. Would it be best to discuss your questions over the phone or would in writing be preferred? Is there a time frame?

Thank you,

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

☞ Arthur Allen ---08/02/2012 11:49:57 AM---Thank you, Ms. Clark. I did speak with Dick Wolfe and Kevin Rein at the Engineer's office, and they

From: Arthur Allen <arthurallenw@aol.com>  
To: Amy Clark/R8/USEPA/US@EPA  
Date: 08/02/2012 11:49 AM  
Subject: Re: query on Stormwater issue

Thank you, Ms. Clark. I did speak with Dick Wolfe and Kevin Rein at the Engineer's office, and they were very helpful. The reason I wanted to speak with you is, I wanted the federal perspective on what Colorado is doing. A year ago I did an article for Landscape Architecture about some of the ways Eastern Seaboard cities (Washington and Philadelphia, to be specific) were dealing with stormwater requirements - Washington with a big dig (to generalize), Philadelphia with the greening project -- and the editors of the magazine wanted me to write a story that talks about how Colorado is making small steps toward doing 'sustainable' things with stormwater, although the historical legal framework is so different because of the focus on quantity rather than quality of water, and the prior use laws that usually prohibit people from holding stormwater on their property for more than 72 hours.

So , in terms of specific questions, I guess they would be along the lines of:

--How are the federal and state governments working together in Colorado to improve sustainability with improved stormwater useage?  
--What impact could better stormwater use make on Colorado and other states' chronic water issues?  
--how much does Colorado's prior use law limit what can be done to treat/hold/reuse stormwater in Colorado?

Hope this helps. It may be that I'm not asking the right questions... journalistsnot being experts on a given topic they write about, often aren't! -- so I'd also welcome any other thoughts you had on this subject.

All best,

EPA-BAFB-0000773

Arthur Allen  
freelance writer, Washington DC  
author, *Vaccine: the Controversial Story of Medicine's Greatest Lifesaver* (WW Norton, 2007); *Ripe: The Search for the Perfect Tomato* (Counterpoint, 2010)

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

From: Amy Clark <[Clark.Amy@epamail.epa.gov](mailto:Clark.Amy@epamail.epa.gov)>  
To: Arthur Allen <[arthurallenw@aol.com](mailto:arthurallenw@aol.com)>  
Sent: Thu, Aug 2, 2012 11:56 am  
Subject: Re: query on Stormwater issue

Dear Mr. Allen - Thank you for your inquiry. Would it be possible for you to provide me with a list of the questions you have before we speak? I also strongly suggest inquiring with the Colorado Division of Water Resources (also known as the State Engineers Office) which administers water rights in the State. If you need a contact at the State Engineers, please let me know and I can provide you with my contact's information.

Thank you,

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)

Arthur Allen ---08/01/2012 02:18:08 PM---Dear Ms. Clark, I'm writing a story for Landscape Architecture magazine about how Colorado is recons

From: Arthur Allen <[arthurallenw@aol.com](mailto:arthurallenw@aol.com)>  
To: Amy Clark/R8/USEPA/US@EPA  
Date: 08/01/2012 02:18 PM  
Subject: query on Stormwater issue

Dear Ms. Clark,

I'm writing a story for Landscape Architecture magazine about how Colorado is reconsidering aspects of its traditional water law system to incorporate on-site stormwater useage, at least on a pilot basis. Would it be possible to speak with you about this issue?

Thanks and best regards,

Arthur Allen  
freelance writer, Washington DC

**EPA-BAFB-0000774**

author, *Vaccine: the Controversial Story of Medicine's Greatest Lifesaver* (WW Norton, 2007); *Ripe: The Search for the Perfect Tomato* (Counterpoint, 2010)



sw talking points.doc

Talking Points  
EPA's Response to Mr. Allen  
August 8, 2012

1. How are the federal and state governments working together in Colorado to improve sustainability with improved stormwater usage?

Please contact Stacey Eriksen at 303-312-6692 or [eriksen.stacey@epa.gov](mailto:eriksen.stacey@epa.gov) for more information on this question.

2. What impact could better stormwater use make on Colorado and other states' chronic water issues?

- There is a national shift from the concept of moving stormwater as far away as quickly as possible in large, buried collection, storage and conveyance systems towards the concept of managing stormwater where it falls; using infiltration, evapotranspiration, and harvesting/use (e.g. green infrastructure).
- This shift moves toward using stormwater as a resource rather than a waste product.
- It's a holistic approach to solving many problems such as stream degradation, flood control and multiple other environmental benefits such air quality improvement, reduction of heat island mitigation and habitat improvement.
- In Colorado and several western States, they tend to get "gully washers" which are the very fast-moving, intense rain events. These differ from the typical rain events along the East and West U.S. coasts which tend to be more slow-moving (e.g. longer duration), less intense rain events.

Second part of Question #2:

"Better stormwater usage" or the implementation of sustainable stormwater management techniques such as green infrastructure (GI) will help Colorado and other western States by:

- Slowing stormwater down which allows water to infiltrate into the soil which can then recharge groundwater tables, an important source of drinking water in the United States.
  - Slowing or reducing stormwater discharges to surface waterbodies reduces the amount of pollutants entering surface waterbodies which can improve water quality.
  - Reducing the amount of rainwater that enters sewer systems (even sanitary sewers which are not designed to convey stormwater but do convey minimal to sometimes large amounts of stormwater), which thereby reduces sewer overflows.
  - Reducing or delaying stormwater runoff volumes which reduces flooding.
3. How much does Colorado's prior use law limit what can be done to treat/hold/reuse stormwater in Colorado?

Note: The Colorado State Engineers Office administers all water rights in Colorado. The State Engineers Office, not EPA, is the Agency who is responsible for administering these rights. EPA does not have any authority or ability to administer water rights in Colorado.

- Colorado's constitutionally-based prior appropriation doctrine that guides water administration 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 allows stormwater to be detained and infiltrated; however, there are some stipulations on how this can be done.
- The Colorado's State Engineers administration allows onsite detention of stormwater but requires that 72 hours after the end of a storm, stormwater be released to "flow downstream to existing water right holders."
- Therefore, detention is allowed if after 72 hours after a storm event, the water is 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 released to flow downstream.
- Albeit, there are still a few limitations with stormwater management in Colorado. In particular, total retention and rainwater harvesting are 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 Engineers 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.