



OUR HIGHLAND PARK WELL WATER (6/5/2018)

There is an old saying that whiskey is for drinking and water is for fighting; water is serious business in the West. We live in a semiarid region, and Highland Park owners obtain their drinking water from groundwater wells, just like much of the Front Range.

While the County required the developer to show at least a 300-year water supply for Highland Park, there is no way to know how long our aquifers will be sustainable (drought, water use in other areas, and myriad other factors can affect them in ways we may not foresee or understand). We must all act to conserve and protect our water quantity and quality. People who purchase in Highland Park (or any other community which relies on wells for water) are expected to read and comply with their well permit conditions, water decree, and plan for augmentation. Following are frequently asked questions regarding water in Highland Park.

Highland Park utilizes individual wells, pursuant to a water decree and plan for augmentation. This affects ALL filings of Highland Park (1, 1A, 1B, 2, 3 and 3A), so both the Highland Park Neighborhood Association, Inc. ("HPA"), the Association for Filings 1, 1A, 1B and 2, and the Highland Park 3 Association ("HP3A"), the Association for Filing 3/3A are committed to ensuring that the augmentation plan is maintained.

FREQUENTLY ASKED QUESTIONS REGARDING THE HIGHLAND PARK WATER SUPPLY AND WATER AUGMENTATION PLAN

1. WELL, PERMIT, AND WATER QUALITY QUESTIONS:

Q: How deep will I have to drill for my individual well?

A: Highland Park was approved for individual well permits in the Dawson and Denver Aquifers (a maximum number of each is approved in the HP water decree). Highland Park, Filing 1 wells are typically in the Dawson aquifer, approximately 400 feet deep. Filing 2 wells (east of Cottonwood Creek) are predominantly in the Denver aquifer, between 500-1200 feet deep. Filing 3 will be predominantly in the Denver aquifer with a few Dawson wells (the Court Decree authorizes a specific number of wells in each aquifer).

The Division of Water Resources recommends fully penetrating the aquifer for longest well life and best water production. They warn that drilling only into the top of the Denver aquifer, as many have done in Filings 1 and 2, may result in depleting the top layer of water, and the need to redrill the well deeper. That said, Highland Park owners may drill as deep into the approved aquifer as they choose, and should discuss construction with their builders and well drillers.

Q: Will I get an "exempt domestic" well permit?

A: No. Wells in Highland Park are not "exempt wells," meaning exempt from administration under Colorado's water rights priority system. Ours are "fee wells" (there is a -F at the end of the permit number indicating it as a nonexempt well associated with an augmentation plan). Permits are issued pursuant to a Water Court decree (Case No. 97-CW-148) and plan for augmentation. Wells are required to have water meters on them and records kept of the amount of water diverted from the well to determine the amount of depletions caused by pumping the wells. Owners must report their water use to the HPA, and the HPA must

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report to the State annually about water usage in the subdivision.

Q: How do I know if the water is safe to drink?

A: Owners can obtain a water potability test sample bottle and sampling instructions at the El Paso County Department of Health and Environment laboratory (1675 W. Garden of the Gods Rd., Suite 2044, Colorado Springs, CO 80907 (719) 578-3199 phone / (719) 575-8664 fax or go online to <http://www.elpasocountyhealth.org/pages/Watertesting.aspx>). As with any location in the country, groundwater quality may vary, and treatment for high iron content or hardness may be needed. New wells or wells which have sat unused for a month or more may need to be chlorinated before use (still water tends to culture bacteria).

2. WATER USE QUESTIONS:

Q: What can I use my water for?

A: Water from individual wells may be used for in-house domestic purposes, and the irrigation of a combined area of lawn, trees and garden up to 5,000 square feet per lot. For planning purposes, estimate nine (9) square feet per tree that is planted and irrigated.

Q: Can I have more lawn and garden if I use less water inside the house?

A: No. The maximum allowable irrigable area is 5,000 square feet, regardless of other usage.

Q: Is there a limit on how much water I can use?

A: Yes. Your permit will allow you to divert (pump out of the well) up to .56 acre feet (af) of water per year at a maximum allowable rate of 15 gallons per minute. An acre foot is 325,851 gallons (covers 1 acre, 1 foot deep), so each property owner in Highland Park can withdraw 182,477 gallons per year, or about 499 gallons per day.

Q: What if I have a big family and need to use more than .56 af per year?

A: There is no provision for such circumstance. Owners must comply with their well permit's conditions of approval or face legal/regulatory action to enforce compliance. The obligation to comply is personal to each property owner, not cumulative for the community. In other words, it does not matter if some owners use less than 0.56 af, no owner is permitted to use more than .56 af. Owners who need more household use water should consider lowering their irrigation use (shorter time periods per zone and/or fewer zone cycles, switching from irrigable area to xeriscape landscaping, fixing leaking toilets, limiting use of water treatment systems, such as water softeners, etc.), taking shorter showers, and installing water saving appliances (low volume per flush or dual flush toilets, shower flow restrictors, etc.).

Q: Should I irrigate?

A: That is a personal decision by each owner. Certainly, all Colorado residents should be encouraged to conserve water. There is only so much available and we should try to make it last as long as possible. Drip irrigation is recommended for trees and shrubs for best water efficiency (less evaporation and pumping volume). Some owners have chosen synthetic sod that requires no water at all.

Q: Are there any recommendations for sprinkler system use?

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A: Yes. Those that elect to use water for sod grass should do smaller zones, and spread their irrigation out over a longer time period to give their wells the best chance of recovery. Pumping twelve zones one after the other for 15 minutes each will draw down the water level in the well much faster than spreading out the zones over a 24-hour period. Extended pumping at one time (especially for Dawson wells and shallow Denver wells) can reasonably be expected to draw down the well to the point that it could start pumping sand or even run out of water. Take “shower time” into consideration when setting the sprinkler clock, as it affects water pressure in the house.

Q: Can I use a gray water or rainwater capture system for irrigation purposes?

A: No. Neither system is permitted. Highland Park well permits require all gray water (from washers, sinks and showers) and black water (from toilets) to be returned to the aquifer via a closed, nonevaporative septic system. Gray water and rain capture systems retain and reuse water, rather than returning it to the aquifer. Such systems will not be approved in Highland Park, and if found to exist will be required to be removed. Any owner that has such a system would be required to disclose to a prospective buyer that the system is illegal, and a violation of the decree and well permit.

3. READING WATER METERS (See "How To Read a Water Meter" at the end of this document)

Q: When are water meter readings required to be taken?

A: February 28/29, October 31, and December 1 of each year.

Q: Does it really matter if we read the meter on those days?

A: Yes. The period from February 28/29 to October 31 will include the irrigation season usage when water when much of the outside water evaporates, rather than goes back into the aquifer. The period from December 1 to February 28/29 represents base use during the non-irrigation season, when return flows (what goes down the drain into your septic system) tend to recharge the aquifer more. Timely readings are required by the Court to give a better picture of how Highland Park pumping impacts the affected stream system(s).

Q: What if I do not read my water meter?

A: You will be pestered incessantly by the Association Directors until you do ☺. Most owners just forget, but some are obstinate. The covenants permit the Associations to bring legal action against an owner (at the owner's expense) to enforce the covenants, and maintaining our augmentation plan is a crucial duty of the Associations.

Q: What if I will be gone (on vacation, winter home, etc.) when a reading will be due?

A: Either make provision for someone else to read the meter and report, or email the meter reading to the HPA before you leave town (theoretically, the meter reading should be the same, unless you have an automatic sprinkler system operating in your absence (this would theoretically only occur during the October 31 reading, as your sprinklers would be off and winterized by December 1 and during the end of February), then you will need to have someone else read your meter for you.

4. AUGMENTATION PLAN:

Q: What is a water augmentation plan?

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A: In short, a water augmentation plan is a procedure for replacing water to a stream system whose flows are depleted by the consumption of water, where the water user does not have a right to the water consumed. Consumption or "consumptive use" means the water has been placed in the evapo-transpiration cycle or otherwise not returned to the stream system.

According to current ground water laws, if water under the land would reach a stream system within approximately 100 years, it is deemed to be "tributary" (or sometimes, "not-nontributary") to that stream system; it supports the stream's flow. Other users may have rights to the stream flow; therefore, a new user cannot consume the water unless the new user has a "water right" (decreed by a Water Court) which allows their use of the water. Otherwise, a downstream user with senior water rights could be damaged because that user might not have enough water for the user's purposes. So, absent a water right, the new user must figure out a way to replace or "augment" the new user's water use so the existing stream flow remains the same as before the use occurred. Augmentation may be made by purchasing water rights on the affected stream system or by physically replacing the water used from another legal water source.

An augmentation plan is submitted to the Colorado Water Court which governs the particular drainage basin in which the affected stream system lies (Division 2, in this case). If the Court approves the plan, it will issue a decree which grants the use of the "tributary" or "not-nontributary" water, provided that ongoing augmentation (replacement of depletions) occurs per the plan.

Q: How does the augmentation plan work?

A: Highland Park lies in the Arkansas River basin. In the area around Highland Park, its tributaries are Cottonwood Creek and Sand Creek. The State says that use of individual wells on Highland Park lots will eventually cause a depletion of water to downstream users in the Platte and Arkansas River basins; therefore, to get such wells approved, Highland Park must augment (replace) a certain amount of water to the stream system.

The developer filed an augmentation plan in the Water Court of both river basins and received approval for such individual wells. The applicable Water Court case numbers are 95CW188 (Div. 1) and 97CW148 (Div. 2), and the decrees were issued and recorded in the El Paso County public records in Book 6861, Page 1173 and at Reception No. 200074498, respectively.

The consumptively used water will be physically replaced from one or more sources. These include the return flows to the stream systems from the non-evaporative septic systems to be installed for each home, and use of return flows from wells owned by the Cherokee Metropolitan District (Cherokee).

Q: Who is responsible for maintaining the augmentation plan?

A: The HPA, which governs Filings 1, 1A, 1B and 2, maintains the augmentation plan, responsibility for which was turned over to the HPA by the developer. Owners in Filing 3/3A will timely report their meter readings to the HPA, as do owners in earlier filings.

The developer, Little London, LLC contracted for and paid for rights to certain Cherokee Metropolitan District return flows and assigned that contract to the HPA. The developer also conveyed to the HPA all decreed groundwater in the Arapahoe and Laramie/Fox Hills Aquifers by deed recorded at Reception No.

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200068420 of the records of El Paso County. Cherokee is a quasi-governmental organization and handles releases of water from its wells, also reporting to the State the amount released for Highland Park. Association dues support maintenance of the augmentation plan.

Q: What are the ongoing requirements for the augmentation plan? (§ refers to the appropriate section of the Highland Park decree)

A:

A. WELLS:

1) Individual wells may be required to be geophysically logged as drilled to obtain additional data about the aquifer characteristics. This information will be used in later augmentation and water right calculations (§15.A.).

2) The well permit number is to be displayed on or near the well head for inspection and identification purposes (§15.C.).

3) Owners need to install and maintain a flow meter on their well and maintain records of water use (§15.E. and F.). The owner's builder, plumber or well installer is usually responsible for this, but the owner is responsible to ensure it happens.

B. WATER USE: Each owner may pump up to 0.56 acre feet (182,504 gallons) each year from their well for household uses and irrigation of a combined area of lawn, trees and garden up to 5,000 square feet per lot. Septic systems must be of the non-evaporative type (§28.1.). Swimming pools (indoor or outdoor) and water features are not permitted.

C. REPORTING: In November of each year, the actual water usage (based on the meter readings), the calculated consumptive use for the period of November 1 through October 31, and the replacements made must be reported to the appropriate Water Division Engineers (§28.F.(2)). The HPA will also report to Cherokee, so they know how much water to release. Cherokee will report to the Water Division Engineers and/or HPA the amount of water released for Highland Park.

D. REPLACEMENTS: Water replacements must be made as required by the Division Engineers on a monthly basis or other basis set by the Engineers (§28.F.(3)).

E. VIOLATIONS: If an owner pumps more than allowed, it is a violation of their well permit and a covenant violation, as well, because it causes a violation of the augmentation plan (this is true of other associations with augmentation plans, too). The District Water Commissioner will likely issue a warning letter, and seek to resolve the situation. If it continues to be a problem, the Division Engineer may become involved and curtail the owner's use of the well. If the owner still does not resolve the problem after that, the owner and Association can be sued by the State for breach of the Court Decree and an order of compliance.

Q: What is the estimated annual cost of maintaining the augmentation plan?

A: This varies, but at present the HPA and HP3A Association dues are adequate to pay for typical ongoing augmentation work, as well as other Association functions. Cherokee routinely releases water and additional

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ongoing expense to Cherokee is not anticipated.

Q: Will Highland Park owners have to pay for drilling an augmentation well?

A: While it is possible, this is not anticipated for the foreseeable future. If additional augmentation water ever were required, it may be necessary for the HPA to negotiate with Cherokee or other water source at that time for such additional augmentation water. In addition, the developer has deeded the decreed water in the Arapahoe and Laramie/Fox Hills aquifers under Highland Park to the HPA, so that the HPA could later drill an on-site augmentation well(s), if necessary. Tract A in Filing 1 (and maybe Tracts B and C) likely provide adequate locations for such augmentation well(s), should the need to drill them ever arise.

5. ENFORCEMENT QUESTIONS

Q: My real estate broker and seller did not tell me about the water restrictions in Highland Park, and I do not want to live with these limitations. What should I do?

A: Real estate brokers have no duty to investigate property on behalf of their buyers, and the facts about a well permit are not considered to be adverse material facts that require disclosure by either brokers or sellers. It is the duty of a buyer to make reasonable investigation of the property they are buying. That includes reading their title insurance commitment which will include an Exception describing the HP water decree and augmentation plan, and getting a copy of the well permit (the buyer has the legal obligation to report the transfer of the well to the State within 60 days after closing, and would need the well permit number to do so). If the buyer does not understand the well permit or decree/aug plan, the buyer should seek expert assistance from the Division of Water Resources or a water attorney. Buyers who cannot live with the conditions in HP3 should not buy here.

Q: What happens if I exceed my allowable water diversion?

A: The first step is that you will likely receive a letter from the District 10 Water Commissioner's office notifying you that you have over pumped your well. The Commissioner is tasked with enforcing compliance with the Highland Park augmentation plan, and seeks to obtain voluntary compliance from owners, and will work with an owner to try to find ways of reducing pumping to allowable limits. The owner may be required to keep monthly records of his pumping to try to find where water can be saved, and to make the owner cognizant of usage patterns. The Water Commissioner has the most latitude in working with owners, but is still constrained by the law and the water decree (he cannot make exceptions to the decree or permit, only try to assist the owner in complying with them.)

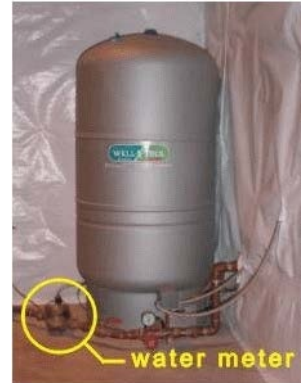
If over pumping continues, the next step will be a letter from the Division Engineer (Highland Park is in Division 2, the Arkansas River basin). The Division Engineer has very little latitude in working with owners.

If the issue is still not resolved, the State Attorney General's office may file a lawsuit against both the Association and the individual to enforce the rules. In such case, the HPA and/or HP3A may be forced to cross-claim against the owner who has caused the Association(s) to be enjoined in the legal action. The defendant owner will be liable for all costs of litigation in those cases, and judgement will result in a lien against the owner's house which can be foreclosed. We do not want this to happen to anyone in Highland Park.

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How To Read Your Water Meter

Finding Your Meter: Water meters are most commonly located in the mechanical (furnace) room of your residence, although it can be in a crawl space of a home with no basement, or in a well pit (a concrete vault) in the yard near the house. Look for a cylindrical pressure tank (often blue or tan) connected to a copper pipe. This tank keeps your water system pressurized when the well pump isn't running. The water meter may be located on the copper pipe very close to the pressure tank. Constant pressure well systems may have a tank, but it is usually a small one. Find where the water line comes through the foundation wall or concrete floor and follow it until you find the meter. The meter may have a protective plastic or bronze cover over the face that you have to lift to read the meter.



Sample meter with closed bronze cap



Sample meter with black plastic cap



Reading your meter: Read the seven digits displayed on the face of the meter. If there is also a sweep dial (red pointer) just ignore it. **Be sure to include all leading zeros and all trailing zeros**, even if they are fixed or painted, when you read the meter. No decimal point is inserted into the reading; just report the digits. See the examples below for different types of dials and how to report the information. Incidentally, if all of your faucets and toilets are shut off, and the red sweep hand or dial is still moving, you have a water leak somewhere.



This reads 0201860



This reads 0021470. If any numbers are in the process of changing, as in this photo where the six is changing to a seven, report the higher number.



This reads 2524100



New meter reads 0000000

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