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1 Introduction

1.1 Update on the Water Rights Statute: CRS 37-92-602(8)

After discussion with Urban Drainage we have updated our guidance both on the statute itself and how to report the data. Please note that the procedures for reporting are somewhat different for CDOT than for Local Agencies, therefore it is critical that any procedures highlighted yellow are strictly followed. Of highest importance is entering the correct email address under 2.2.4. Otherwise CDOT will not be able to edit a facility unless we go through the applicable local agency.

1.2 Statute Recap

Statewide any detention and infiltration facilities that are not operational by August 5th, 2015 must, prior to operation of the facility, provide notice to all parties on the substitute water supply plan maintained by the State Engineer (aka enter the facility data into the web portal). Facilities operational prior to August 5th, 2015 do not have to provide notice.

The Urban Drainage and Flood Control District (UDFCD) has created a web portal for providing notification to all parties.

CDOT HQ has provided Interim Guidance below that updates the Guidance issued on 8/5/2015. This will serve as Guidance until a Design/Construction Bulletin is issued later this fall.

2 Important Information on Using These Directions

2.1 Web Link

The following directions give an overview of using the portal. UDFCD has a recorded webinar that provides helpful information on how to use their portal, but the webinar is specific to the typical user and how the Portal works for CDOT differs in several key ways related to how user permissions are assigned. Therefore in certain instances our procedures differ from the UDFCD webinar. The differences are highlighted in teal throughout the directions that follow. In all other ways the UDFCD portal should work the same for CDOT.

<https://www.youtube.com/watch?v=4yg0hyk8fDw>

2.2 Graphic and Webinar References

Throughout the below directions I note where the webinar provides additional detail on how to use the portal. This is denoted with parentheses and the minute and second when the webinar discusses the applicable topic. For example (24:15) would mean more detail is provided 24 minutes and 15 seconds into the webinar.

Finally, the following three graphics are referenced in the directions. Graphic 2 and 3 have been labeled with numbers for further clarity. When referring to a graphic we denote it by putting G then the graphic number and then the label. So for example (G.2.1) is pointing you to a link on graphic 2. The link is labeled with a #1.

Please enter the following attribute information:
For more information about each attribute, hover mouse over the field for a tooltip.

- 1 Jurisdiction *
- 2 Division *
- 3 Facility *
- 4 Design Storm *
- 5 Design Ponding Acres *
- 6 Data Sheet * No file chosen
- 7 Engineer of Record Email Address *

Graphic 3

3 Important Requirement

All stormwater detention and infiltration facilities that are located within CDOT owned land, throughout the State, must be entered into the web portal.

CDOT Staff/Consultant/Local Agency (see Who Reports the Facilities in section 6.2) creating the facility record in the web portal must use the applicable region email address (see G.3.7). See step 4.2.4 for the table of region water rights email addresses.

If a Region Water Rights email is not used CDOT will not have the ability to edit the facility created in the Water Rights portal, will not be able to view it after 90 days, and will have to request this information from the local agency.

See 4.2.4 on where email is entered during record creation.

4 How to Enter/Edit Data in Portal

4.1 Accessing the Portal (22:42)

Use the following web address to access the portal:

<https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>

This will bring you to the web portal (G.1)

4.2 Entering a stormwater facility into the portal (24:00)

4.3 In District vs Out of District

Note the first example UDFCD gives is for a facility in the Flood Control District. They give another example for one outside of the District at 34:40. The main difference is how the rainfall data is generated.

4.4 Manipulate the Map

Click on (G.2.3) Toggle Tool Bar (24:00) to access tools for manipulating the map.

4.5 Locate the Facility on the Map

Click on (G.2.4) Add New Stormwater Facility to located the facility on the map (24:38). Once added you will be able to enter the facility attributes

4.6 Enter the Stormwater Attributes (25:15)

1 Facility Name

When entering (G.3.3) the Facility name, use the following naming convention so that we can cross reference the facility to our records if needed: [R#] [digit subaccount #] [Project Name] [Type of Facility] [facility # in sequence]. For example, a project in Region 2 that is building three EDBS would enter the first facility record as R2_12345_SH 333 Widening_EDB_1 and the record for the second facility as R2_12345_SH 333 Widening_EDB_2 and so on.

2 Design Ponding Acres

This is actually entered after uploading the Design Data sheet in step 4.2.5.

3 Engineer of Record Email Address (G.3.7)

It is critical that one of the CDOT region email addresses is entered in this field. For most entities the email address is not critical because it's only purpose is to receive the username and password for the facility that the Portal sends out. However, for CDOT it is important that we use one of the region Water Rights email addresses below because the system only recognizes the facility as belonging to CDOT if one of the following emails is used:

Region	Email Address	Email Address Contacts
HQ	dot_hqwaterrights@state.co.us	Al Gross, Amber Williams
1	dot_R1waterrights@state.co.us	Scott Leiker, Holly Huyck

2	dot_R2waterrights@state.co.us	Robert Frei - Manager, Andy Stecklein, Sonya Erickson, Dennis Cress
3	dot_R3waterrights@state.co.us	Michael Vanderhoof, Gary Spinuzzi, Peter Lombardi
4	dot_R4waterrights@state.co.us	James Eussen, Carol Parr
5	dot_R5waterrights@state.co.us	Fran Mallonee

4.7 Steps to Entering Required Data

Download (G.3.6) the SDI Design Data Sheet Spreadsheet (25:46)

Please download and complete the SDI Design Data Sheet. Note: you do not have to use this sheet, but it is recommended as it is already designed to populate many of the fields when you enter data) and has been reviewed to ensure all requirements are included.

This workbook has macro enabled content. In order to use it you will need to have macros enabled.

Fill out spreadsheet (28:10)

Fill out the User (Input) Watershed Characteristics, the User Input: Detention Basin Characteristics and User Defined Data (30:33). The Urban Drainage Webinar has examples of how to obtain the Location for 1-hr Rainfall Depths both in the UDFCD boundary (29:45) and outside. Once you fill out these tables it will generate your hydrographs. Press Process Data (30:54) to see output data to see if you are in compliance (31:15).

Enter Data into the Spreadsheet

Print the spreadsheet to pdf and save to your computer and then attach to the portal by clicking choose file in portal (32:50).

Enter the (G.3.5) Design Ponding Acres (33:00)

The Design Ponding Acres is the water surface area at design volume which can be found on the design data spreadsheet.

Hit save.

Notification will go out to everyone on the state substitute supply list plus anyone who subscribes to the list per step 10.

For examples of entry for facilities outside UDFCD district and a water quality basin see the UDFCD webinar (34:40).

5 Definitions

5.1 90 day window:

The period of time between when the notification for a new record is sent to the Notification List and when it is no longer visible to the End User or the Facility Creator. This period of time is 90 days. After this window only the Power User/Administrator for that record can view and edit it.

5.2 Facility or Record Creator or Data/Editor Creator

This can be the design engineer or someone from CDOT. This is the person who creates a record (enters a facility into the Portal) and who can edit a stormwater facility in the database, within the 90 day window. They can only edit the facility/record they have created. For CDOT this is either CDOT staff or CDOT consultant staff.

5.3 Super or Power User or Administrator

This is CDOT or other jurisdiction. This is the person providing the QA/QC. This person can edit/delete any record in their jurisdiction, at any time. The Super/Power User has override authority over the Facility Creator. The Super User must approve the Facility Creator's entries (1:06:30). **A record is considered in CDOT's jurisdiction if one of the CDOT water rights emails is entered in the Engineer of Record Email field during record creation. Otherwise the Power User who has edit/delete permissions will be the local agency where the facility is located.**

5.4 End User or End User

These users have no password and no log in. They are only able to view the Portal. These are the parties who are notified by the portal.

6 When Facilities Must Be Reported

6.1 Facilities must be entered prior to becoming operational.

Operational is defined as:

A detention and infiltration facility is operational when stormwater is flowing into it and flowing out of it (either on the surface or infiltrating into the soil below it), while experiencing a change in the detained volume over time (first increasing in volume and then decreasing).

See UDFCD FAQ (see Resources 14) for more information on detention.

6.2 Facilities may report any time prior to this

But HQ recommends facilities report just prior to becoming operational so that edits do not have to be made to the record in the portal. HQ will have to assist with any edits made more than 90 days after the original notification.

7 What Facilities Must Be Reported:

7.1 Regulatory Description

All stormwater detention and infiltration facilities that are operated solely for stormwater management and are owned or operated by a governmental entity or are subject to oversight by a governmental entity (e.g., required under other statutes for flood protection or water quality). Additionally, to be covered, these facilities must meet the following drain time limitations and other criteria specified in the statute and UDFCD memorandum:

1. It is owned or operated by a governmental entity or is subject to oversight by a governmental entity (e.g., required under an MS4 permit)
2. It continuously releases or infiltrates at least 97% of all of the runoff from a rainfall event that is less than or equal to a 5-year storm within 72 hours after the end of the event
3. It continuously releases or infiltrates as quickly as practicable, but in all cases releases or infiltrates at least 99% of the runoff within 120 hours after the end of events greater than a 5-year storm
4. It operates passively and does not subject the stormwater runoff to any active treatment process (e.g., coagulation, flocculation, disinfection, etc.)
5. If it is in the Fountain Creek (tributary to the Arkansas River) watershed it must be required by or operated in compliance with an MS4 permit

7.2 Additional Interpretation of what is covered

In essence, any facility that detains water and we own or have oversight over should be reported. This can include facilities built for NEPA, MS4 permit requirements or for safety concerns. See UDFCDs FAQ for more information (see Resources 14).

8 Who Reports the Facilities (10:30)

8.1 Notification by the entity who owns, operates or has oversight

Per the regulation the notification or web portal entry has to come from the entity who owns, operates or has oversight for the facility. It can be any of those three who enter the information. If the notification requirement does not take place both the oversight entity and the owner/operator have legal responsibility.

8.2 Therefore, per CDOT determination the notification will be provided as follows:

For CDOT owned facilities either the CDOT Region Hydraulic Engineer or the CDOT consultant may create the facility record in the portal. This is a Region decision, but the design data sheet should be completed by the Engineer of record and the email address

entered in the Engineer of Record Field should be the region water rights email address per 4.2.4.

For Local Agency projects where CDOT has oversight over the local agency and the facility is being built as a result of CDOT requirements: either the local agency or their designee enters the facility information. They should follow our procedure when entering the Engineer of Record Field should be the region water rights email address per 4.2.4.

For Local Agency projects where CDOT has oversight over the local agency and the facility is being built as a result of Local Agency requirements: either the local agency or their designee enters the facility information. They should follow their procedure for entering the facility.

9 What Information Must Be Reported

9.1 Regulatory Required Information (9:05):

There are three things that must be reported per the regulation

1. The location
2. The approximate surface area (of the facility) at design volume
3. Data that demonstrates that the facility has been designed to comply with the release rates described in 5.1 which reflects Items 2 and 3 of the attached UDFCD Memo.

9.2 Additional Portal Information:

Additional required fields are for functionality of the system and user experience. For example, the facility name field allows the Facility Creator or Power User to be able to more easily identify a record for editing.

10 Appendix A: How the Portal and Email Notification Work (11:40)

10.1 Viewing the Portal

When you access the portal you will see a map of Colorado that is divided into 7 major watersheds. Each one of these watersheds has its own email list that is maintained by the State Engineer. There is a separate notification list associated with each of these watersheds (also referred to as Divisions in the webinar).

The icons on the map represent stormwater detention facilities that have been added in the last 90 days. Only facilities that have been added in the last 90 days are visible

to the End User (someone who does not have a password). This is so the map does not become cluttered.

Power Users will be able to see all the data for their jurisdiction.

10.2 Notification to the End User (13:00)

Each of the 7 major watersheds has its own email list. In the Portal each watershed list is assigned a different day of the week to notify. For example notifications may be sent for the South Platte watershed on Sunday and for the Gunnison watershed on Monday. Notifications are sent at 3 a.m. on each day of the week assigned to that particular watershed's notification list.

The email notification includes the list of the facilities added to the portal in the last week (but only for the watershed associated with that particular notification list. It gives the End User a link to the map where they can view all of the facilities added in the last 90 days and it gives a list of all the facilities added in the last 7 days.

From the map the End User can see the design information associated with that facility and where it is located and the other information that has been entered into the portal, including the data that demonstrates compliance.

10.3 Record Approval and Notification Timing

Once the Facility Creator enters the record into the portal it will appear as a green icon on the portal map.

The record icon turns blue and is sent to the Notification List when one of the following occurs, whichever is first: the Power User approves/rejects the record or the Power User does not take action within 30 days.

During the 90 day window the facility record is editable by anyone with the record password. The password is sent to the email address entered into the Engineer of Record Email Address field (G.3.7) when the facility record is created in the portal.

90 days after notification the record will disappear from the portal and only Power Users will be able to edit the facility record in the portal.

11 Appendix B: Why We Must Report (4:30)

11.1 Notification

UDFCD, the Colorado Stormwater Council (CSC), and others (2:30) lobbied to pass legislation that legalizes stormwater detention facilities provided the facilities meet certain criteria. There was opposition along the way and compromises were made. One of those was the notification requirement. The State Engineer's Office maintains an email list of people on the Substitute Water Supply Plan. There are actually seven lists; one for each major state watershed. We have to notify the people on this list every

time a stormwater detention facility goes on line. UDFCD created the Portal to make it easy for us to comply with the law and for the End User.

11.2 Provides Protection

The Statute provides legal protection for regional and individual facilities. If these facilities are owned and operated by a governmental entity or are required by a governmental entity they fall under this legislation. These facilities have to release or infiltrate at least 97% of the five year storm in 72 hours or less and at least 99% of anything larger than the five year storm in 120 hours or less. They must operate passively and not subject the stormwater to any active treatment. The water detained cannot be used for beneficial use.

Note: The Webinar discusses the Fountain Creek exception which has protection limited to MS4 (6:35).

12 Appendix C: Why and How the Statute Protects CDOT

12.1 The statute does not state what happens if we don't comply (52:20).

12.2 Rebuttal Presumption of Non-Injury

Facilities entered into the portal are presumed not to injure water rights, but this is rebuttable in court. It will be extremely difficult to demonstrate that the facility is injurious to water rights.

The challenge would have to demonstrate that they have been injured and not that they will be injured. And they have to demonstrate that they have been injured in respect to the water they would have received both in timing and volume at the time of the Priority Date of their water right. In most cases this is at least 50 years ago and in many 100 or more.

In other words they have to prove that they are getting less water now in either time or magnitude, as a result of our facility, compared to what they would have received at the time of their Water Rights Priority Date. Since most of the Priority dates were pre-development that would be very difficult to prove in most cases.

12.3 Pre-Statute Facilities Non-Injurious

Facilities that were operational prior to August 5th, 2015 are by Statute non-injurious to water rights.

13 Why a CDOT Region Water Rights Email Must Be Used

13.1 Background on User Permissions

The purpose of the Power User's authority is to provide QA/QC on the data going into the system. The administrative authority is making sure data is not being submitted maliciously or checking for things like duplicates or data entry. Typically the local agency where the facility is located is the Power User and this is based on jurisdictional boundary, but in CDOT's case the system assigns Power User status based on the Engineer of Record Email Address field entered when a record is created (see 4.2.4). The reason for this is that CDOT's geographical boundary is difficult and was not available to UDFCD.

Editing authority is given to the Facility Creator. They only have the ability to see and edit the record for 90 days after the Power User approves the record. When a record is created the system generates a unique password and sends it to the email address used during the record creation. This is the only time the password is emailed to the user and there is no other way to gain access to it. The only other person who can edit the record is the Power User.

After this 90 day period, only the Power User will be able to see and edit the facility record.

13.2 Importance of Using the CDOT Water Rights Email

As noted in 4.7.1, the default for the portal, is to make the local agency the Power User. Only when a CDOT Water Rights email address is provided in the Engineer of Record Field is CDOT assigned as the Power User. What this means is that if we do not use a Water Rights email address the Local Agency will be the Power User and after the 90 record creation window CDOT will not be able to edit or view the facility.

Additionally, the email address entered into the Engineer of Record Email Address field is where the password used to edit the facility during the 90 day window is sent. The Water Rights email addresses are shared mailboxes that multiple staff can access. This means that if someone goes on vacation or is out sick that another person can access this information.

14 Appendix D: Resources for More Information

14.1 [Urban Drainage and Flood Control District Home](#)

14.2 [UDFCD CRS 37-92-602\(8\) FAQ](#)

14.3 [UDFCD CRS 37-92-602\(8\) Explanation Memo](#)

14.4 You can contact **Amber Williams or Al Gross** for more information.

14.5 **CRS 37-92-602(8)**



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