

RAINWATER HARVESTING QUESTIONS and ANSWERS

Senate Bill 09-080, which was passed by the General Assembly and signed by the Governor during the 2009 legislative session, allows limited collection and use of precipitation for landowners, only if:

- The property on which the collection takes place is residential property
- The landowner uses a well, or is legally entitled to a well, for the water supply
- The landowner has (or is eligible for) a well permitted for uses according to Section 37-92-602 or Section 37-90-105, C.R.S.
- There is no water supply available in the area from a municipality or water district, and
- The rainwater is collected only from the roof of a building that is used primarily as residence
- The water is used only for those uses that are allowed by, and identified on, the well permit

NOTE: Rooftop precipitation collection permits cannot be issued if the water source operates under a system using an augmentation plan. Most importantly, contact your local Division of Water Resources office for more information and detail on eligibility.

Applying for a Permit. The process of obtaining approval for a rooftop precipitation collection permit is almost identical to the permitting process for private wells. There are four scenarios for rooftop precipitation collection permits:

1. Applicant has an existing permitted well or unexpired well permit issued pursuant to Section 37-92-602 or 37-90-105, C.R.S. Complete Form No. GWS-78. If the well was in use prior to May 8, 1972, it is possible that it has not been issued a permit.
2. Applicant has an existing unpermitted well that was in use prior to May 8, 1972, for those uses described in Sections 37-92-602(g) or 37-90-105(f), C.R.S. Complete Form No. GWS-78 and Form No. GWS-12 (see also Form No. GWS-12-A).
3. Applicant is applying for a permit to construct a well to be used for ordinary household uses, and also intends to use a system for rooftop precipitation collection. Complete Form No. GWS-78 and Form No. GWS-44 (revised 7/2009).
4. Applicant does not intend to construct a well, but wishes to install a rooftop precipitation collection system. Complete Form No. GWS-78 and Form No. GWS-44 (revised 7/2009).

Most applicants will likely fall under the category of **“Ordinary household use in one-single-family dwelling (no outside use).”** In this case, water use is restricted only to the indoors. Such permits **do not allow for outside water use** and are understood to comprise drinking and sanitary uses inside the home.

The scenarios in this report, therefore, are addressed to a basic permit for **“Ordinary Household Use”** with a Rooftop Collection System.

In some cases, however, it may be possible to obtain a permit for **“Ordinary Household Use”** that would also allow outdoor uses such as home garden and/or lawn irrigation (not to exceed

one acre) or domestic animal watering. **This permit category requires the applicant to have or be eligible for a well permit on a tract of land larger than 35 acres.**

Responses by water team members to questions posed by agents at CCAA PIC (Salida, CO) on November 18-19, 2009

1. Is warm-up water legal to use outside?

Warm-up water is unused potable water allowed to run down the drain before it reaches a desired temperature. Warm-up water that has not been used for bathing or dishwashing is generally free from bacteria and other pathogens if it is captured before it reaches the drain, and can thus be distinguished from graywater and requirements associated with graywater. However, the use of this water depends entirely on the well (or rooftop precipitation collection) permit. A permit for “ordinary household use” in one single-family dwelling (no outside use) would NOT allow for warm-up water to be used outside.

2. Can I water an attached greenhouse?

The basic permit stipulating “ordinary household use in one single-family dwelling (no outside use)” would NOT allow for watering plants in a greenhouse where such a building is specifically dedicated to growing plants.

3. Can I water my horse/sheep/chickens?

The basic permit stipulating “ordinary household use” in one single-family dwelling (no outside use) would NOT allow for watering animals. A permit for this purpose could be issued, but only for a tract of land larger than 35 acres. If these animals are NOT owned for commercial purposes, then a permit allowing for “domestic animal watering” should be sufficient. If the animals are part of a commercial farm or ranch, a further stipulation may be required for “livestock watering.”

4. Can I put a dog – water dish outside?

The definition of “ordinary household use in one single-family dwelling (no outside use)” is understood to include water use for pets, indoor animals, and aquariums regardless of whether a water source originates from a private well or rooftop precipitation collection system.

5. Can I wash my windows? Inside/out?

A reasonable understanding of “ordinary household use in one single-family dwelling (no outside use)” would include washing both surfaces of a window pane, especially if the wash water is taken from indoors. The key principle is whether the action falls under the definition “no outside use” which does NOT include washing outdoor objects or equipment, just as it does NOT allow for outdoor watering of plants or gardens.

6. Can I wash my car?

A permit stipulating “ordinary household use” in one single-family dwelling (no outside use) would NOT allow for washing your car. Such use is limited to drinking and sanitary uses inside the home.

7. Can I have a hot tub?

Any permit stipulating “ordinary household use” would NOT allow the use of captured rainwater to fill a hot tub. This includes single-family or multiple dwelling unit situations. A permit for this purpose could be issued, but only if the water supply originates within a system operating under an augmentation plan, in which case a rooftop precipitation collection permit could NOT be issued.

8. Can I collect rainwater when it’s a “free river” for watering my garden?

Free river conditions occur when there is more water than all decreed water rights on a river system (i.e., when no senior user has placed a call on the river), enabling any water user, with or without water rights, to use water from that waterway. A “free river” is most likely to occur during the spring runoff or on streams that have few water users. This question deals with two issues: a) *diverting* rainwater, and; b) *storing* rainwater. As long as the water is immediately put to use – in this case watering a garden – you can *divert* from any source of surface water or tributary ground water during “free river” conditions. *Storing* rainwater (such as in a barrel or tank) for later use is a separate issue and is subject to a decree or permit no matter the state of the river.

9. Can I drain my clothes washer onto my garden?

Regardless of whether a water source originates from a private well or rooftop precipitation collection system, the discharge water from a clothes washer is called “graywater.” Water from a bath, shower or bathroom sink is also classified as graywater. Water from a dishwasher, kitchen sink, or toilet is classified as “black water.” The state of Colorado does not currently separate the treatment of graywater and black water and considers that they both pose the same human health risks as black water. Both sources can be used for (subsurface) irrigation only if treated with an approved and permitted septic system or leach field. In regards to permitting, the basic permit stipulating “ordinary household use” in one single-family dwelling (no outside use) would NOT allow the use of the “graywater.” The basis for issuing such a permit is that the water would be used for inside uses that are relatively nonconsumptive, thus ensuring minimal impact to the tributary system by virtue of the return flows. If the water is used for highly consumptive irrigation (instead of returning to the stream system via a non-evaporative septic system), then the basis for the presumption of non-injury that allowed the permit’s issuance in the first place would be undermined.

10. Can I water a pot of flowers by my front door?

A reasonable understanding of “ordinary household use in one single-family dwelling (no outside use)” includes watering of typical household plants, especially if the water is taken from indoors.

**11. Can I water houseplants? What's the line between many houseplants and a greenhouse?
Is a sunroom with plants legal?**

A reasonable understanding of “ordinary household use in one single-family dwelling (no outside use)” includes watering of typical household plants in a sunroom or otherwise, especially if the water is taken from indoors. There is no definitional line between “many houseplants” and a greenhouse, unless obviously the greenhouse is an attached room or detached building used specifically dedicated to growing plants.

12. Can I empty my water bottle that I only half-drunk into my garden?

The definition of “ordinary household use in one single-family dwelling (no outside use)” is understood to comprise drinking and sanitary uses inside the home. A reasonable view of this definition would allow for transport of drinking water away from the home.

13. Can I send downspout water onto my garden?

This situation is acceptable as long as rainwater is simply directed from the rooftop to the garden during a storm event. On the other hand, unless the permit allows for outdoor use, rainwater may NOT be stored for later use into a garden.

14. Can I plumb my detached garage from my house?

A permit stipulating “ordinary household use” in one single-family dwelling (no outside use) would not include the use of water in buildings other than the main dwelling. Such use is understood to comprise drinking and sanitary uses inside the home. Allowance may be made, however, if the use of the water in the garage is limited to the same uses that would occur in the primary dwelling unit. For example, a garage plumbed with a toilet and sink for usage by the residents (or as part of a home business) is allowable because these facilities would still incur “ordinary household use.”