

## Colorado Water Law 101

Introduction to Water Wells, Surface Water Rights,  
and Well Permitting

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[www.water.state.co.us](http://www.water.state.co.us)



COLORADO DEPARTMENT OF NATURAL RESOURCES

- Water Resources
- Wildlife
- Oil and Gas Conservation Commission
- Geological Survey
- Forestry
- Water Conservation Board
- State Parks
- Reclamation, Mining and Safety
- State Land Board

## Major Progressive Responsibilities for DWR

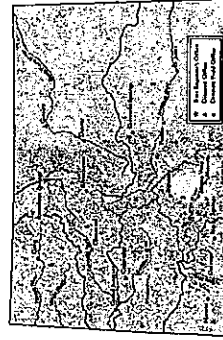
- Water Administration
- Public Safety
- Ground Water Permitting
- Interstate Compacts
- Hydrographic Program
- Public Information Services

## Water Administration in Colorado

- Over 173,000 water rights
- Over 105,000 structures
- Over 250,000 wells

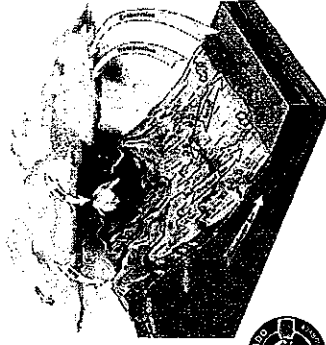


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## The Hydrologic Cycle





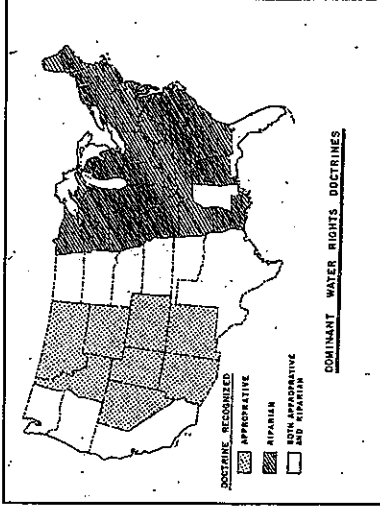
### Colorado's Water Administration System

The Prior Appropriation Doctrine means those that put the water to use first are entitled to get their water first during periods of water shortage. In Colorado, water is a separate property right that can be sold separately from the land. This is opposed to the Riparian Doctrine that recognizes water rights being attached to lands adjacent to the river or stream.



### Colorado's Water Administration System

In Colorado, the priority of a water right is determined by both the date when the water was first put to a beneficial use and the date when the right was decreed by the Water Court. The actual seniority of a water right is most easily determined by looking at the Administration Number of the right as assigned by the Division of Water Resources.



### Water Deliveries in Colorado

- Agriculture 86%
- Municipal/Domestic 7%
- Recreation/Fisheries 3%
- Industrial/Commercial 2%
- Augmentation 1%
- Recharge 1%



### Ground Water in Colorado

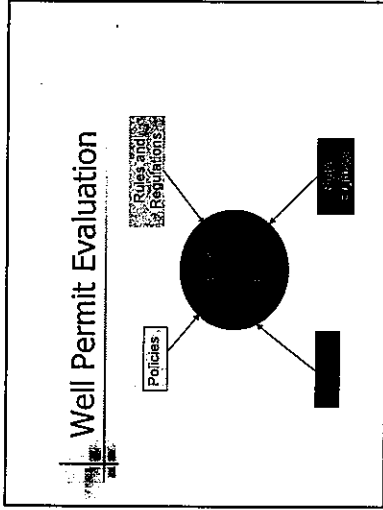
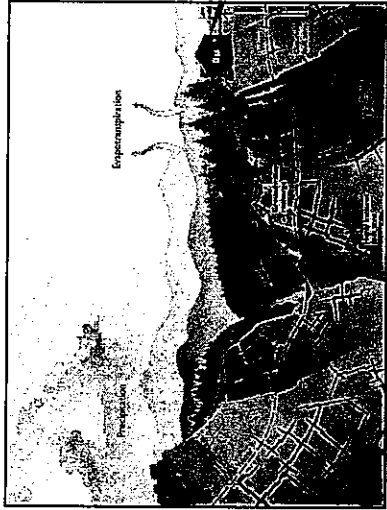
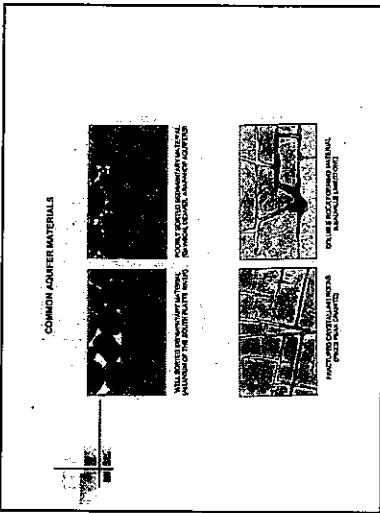
- 85% used for agriculture for > 2 million acres
- 18% of population relies on ground water
- Ground water represents only about 17% of all water diverted
- DWR issues over 8,000 well permits per year (70% domestic)



### Ground Water

- Tributary
- Non-tributary
- Denver Basin
- nontributary
- not nontributary
- Designated Groundwater





**Exempt vs. Non-Exempt Wells**

- By statute (§37-92-602, C.R.S.), certain wells are "exempted" from operating under the water rights priority system. These wells operate without a plan for augmentation.
- All other wells are considered non-exempt and may typically operate only with a water court approved plan for augmentation.

**Exempt Wells**

- Household Use Only (for most)
- Domestic (includes some outside uses- home lawn & garden irrigation and domestic animal watering )
- Livestock
- Commercial- drinking and sanitary only
- Monitoring and Observation

**Non-Exempt Wells**

- Irrigation, Municipal, Industrial, and Commercial
- Subdivision with Augmentation Plan
- Gravel Pit/Pond with Exposed Ground Water
- Remediation/Recovery Wells
- Permanent Dewatering Systems

**Differences Between Exempt Wells and Non-Exempt Wells**

- **Exempt Wells**
  - Not administered within the priority system
  - Water available or presumption of no material injury
  - Uses limited by statute
  - Most limited to 15 gpm
  - Most require return flow
- **Non-Exempt Wells**
  - Administered within the priority system (except D8, NT and Des. Bas.)
  - Augmentation Plan typically required to prevent injury to other water rights
  - Well spacing requirement—600 feet

**Differences Between a Well Permit and a Decree**

- **Well Permit**
  - Issued by DWR
  - Permit to construct and use limitations
  - Does not convey a water right
  - Does not guarantee quantity or quality of water
- **Decree**
  - Issued by Water Court
  - Adjudication of water right
  - Absolute or conditional
  - Does not guarantee quantity or quality of water

**Parcel Creation Affects Issuance of Exempt Permits**

- Exempt permits may be available:
  - Pre-June 1, 1972 Parcels
  - Parcels 35 Acres or Larger
  - Subdivision Exemptions
  - Cluster Development
- Exempt permits may not be available:
  - Subdivisions created post June 1, 1972
  - may need augmentation plan.

**Typical Uses Allowed for Exempt Wells**

- For well permits issued on or after May 8, 1972:
  - If the well is on a parcel less than 35 acres, the use will typically be limited to in-house only ("Household").
  - On parcels of 35 acres or more, use may include home lawn and garden and domestic animal watering ("Domestic")

**Exceptions to Typically Allowed Uses**

- For well permits issued on or after May 8, 1972:
  - If the well is constructed to produce from one of the Denver Basin Aquifers, outside uses may be allowed on less than 35 acres.
  - West Slope has a few areas where outside uses available on < 35 acres.

**What Does "Domestic" Use Really Mean?**

- All "Domestic" wells are not created equal.
  - "Domestic" wells issued for 35 acre parcels commonly have allowed uses of 3 SFD, 1 acre lawn/garden, and stock/domestic animal watering.
  - "Domestic" wells from pre-5-8-72 are limited to historical uses.

### What Does "Domestic" Use Really Mean?

- All "Domestic" wells are not created equal.
  - "Domestic" wells issued in Denver Basin may have some outside uses, but uses are typically less than those permitted on 35 acre parcels.
  - Best to check well permit for allowed uses.

### What is a Plan for Augmentation?

- Detailed plan to increase the supply of water for beneficial use. Purpose is to allow junior water rights to legally divert when otherwise out-of-priority.
- Approved by the Water Court. (Located in Greeley for South Platte basin.)
- Dry-up of senior irrigation right commonly used as replacement source.

### Purchasing Property?

- How was parcel/lot created?
  - Water Supply
    - Individual on-lot well
    - Central supply (surface or ground water)
    - Shared well
  - Septic/Leach Field or Central
  - Well Pumping Rate
  - Well Water Quality

### Purchasing Property?

- Existing Well
  - Well construction and location
  - Valid permit?
  - Permitted uses?
  - Change in ownership
- Other Water Rights
  - Direct flow
  - Storage

### New Issue - HB08-1014

New law regarding wells and residential real estate

- Beginning January 1, 2009, the BUYER in a residential real estate transaction that includes the transfer of a registered/permitted residential well, must, prior to or at closing, complete a Change in Owner Name/Address form (GWS-11) in compliance with § 37-90-143, C.R.S.
- § 37-90-143, C.R.S. is existing requirement to file change of owner name/address.

### New Issue - HB08-1014

New law regarding wells and residential real estate

- If the subject residential well is not of record (i.e. does not have a well permit) with the Division of Water Resources, an application to register or permit an existing well (depending on the circumstances) must be completed by the BUYER in lieu of the Change in Owner Name/Address form.
- § 38-30-102, C.R.S. details new requirements.

**New Issue - HB08-1014**  
Registration of Existing Wells

- All forms available on DWR website at: [www.water.state.co.us](http://www.water.state.co.us)
- Change in Owner Name/Address (GWS-11)
- Registration of Existing Well (GWS-12) for residential/livestock wells put to use prior to May 8, 1972 (use limited to historical use).
- Residential Application (GWS-44) should be used for new wells or if no pre 5-8-72 use.
- Existing Well Information (GWS-68) needed for existing wells without construction/well log.

**New Issue - HB08-1014**  
Registration of Existing Wells

- NOTE - Recent change regarding Registration of Existing (pre-72) Wells.
- For wells in the South Platte River basin, field inspection by Water Commissioner no longer required, but must complete the Existing Well Information form (GWS-68).

**New Issue - HB08-1014**  
Registration of Existing Wells

- Registration of existing wells is for the historical uses of the well that were established prior to May 8, 1972, and that have continued since that time to the present.
- Any uses that have been discontinued for 10 or more years may not be registered and are considered to be abandoned.

**Common ?????**

- Do I need a well permit before drilling a well?  
*Yes. Exception for monitoring holes.*
- Does DWR do water quality testing?  
*No.*

**Common ?????**

- If I have an underground water right, do I still need a well permit to drill a well or withdraw ground water?  
*Yes.*
- What does my well permit grant me?  
*Ability to drill a well and use water for the permitted uses.*

**Common ?????**

- Can I get a well on my property if I have other water available to my property?  
*Only if the water provider does not object to us issuing a well permit and the property qualifies for a well permit.*

### Common ?????

- My permit limits me to household use only. Does this allow me to water my horse and irrigate my outside flower garden?  
*No. Only in-house uses.*
- Is there a minimum lot size required to qualify for a well permit?  
*Only for certain uses, not HUC.*
- What is the minimum well flow rate needed to get by on?  
*Neither state statutes nor DWR have established one.*

### Common ?????

- If I purchase "horse property" can I use my well to water my horse?  
*Only if the well permit allows for domestic animal or livestock watering. Many properties may be zoned for horses, but may not have a well permit that allows for outside uses such as horse watering. Zoning is determined by the County and zoning can allow or restrict uses independently of the state statutes that provide for the issuance of well permits. Always check the well permit to verify the allowed uses of the well.*

### Common ?????

- If I have a well that is permitted for the watering of livestock or domestic animals, can I use the well to supply water to my horse boarding operation?  
*No. We consider boarding operations to be commercial operations. As such, a commercial well permit that allows for domestic animal or livestock watering must be obtained.*

### Common ?????

- Can I install a rainwater harvesting system in my yard (e.g., rain barrel)?  
*No. Water is a public resource and must be administered in priority.*
- Can I use gray water?  
*Typically, no, due to well permit requirements and water quality regulations.*

### Common ?????

- How is the value of my water right determined?  
*The amount of historical consumptive use, the priority of the water right, and Location, Location, Location!*
- How much water do I get for my one share of the XYZ Ditch Company?  
*It is different for each ditch company. Usually based on a duty of water.*

### Common ?????

- How do I know if a well is permitted?  
*Ask the seller for a copy of the well permit or the permit number.*
- How can I search for well permits?  
*DWR website offers AquaMap Tool.*

## Not So Commonly Asked Questions

- There's a snake in my well pit! What should I do? Can you take care of this?
- My water is so full of iron oxide that my children are turning orange! What can I do?
- I know my permit limits me to in-house use only, so can I bring my "pet" horse in the house to water him?

## Need Help?

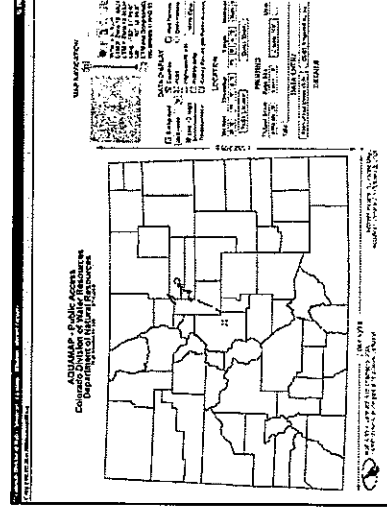
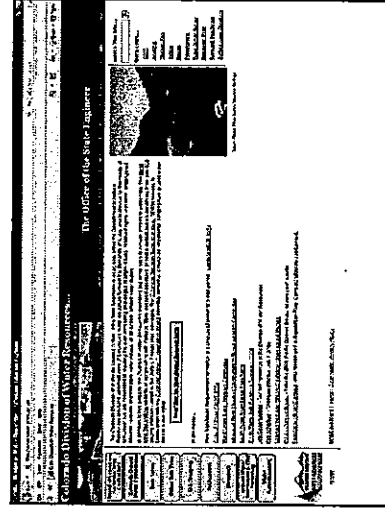
- DWR Web Page ([www.water.state.co.us](http://www.water.state.co.us))
- Water Information Desk (Denver) – 303-866-3587
- Records (Denver) – 303-866-3447
- 7 Division Offices
- Division Office for South Platte River basin (Greeley) 970-352-8712

## Records Information Line 303-866-3447

- Requests for copies of Permits, Decrees, Water Court Cases
- Assistance with locating or determining Permit Numbers, Water Rights Decrees
- Requests for Forms, Maps, DWR Reports, Data

## Water Information Desk 303-866-3587

- Technical information regarding groundwater, water administration, and aquifers
- Well Permitting and Permitting Status
- Rules, Regulations, and Policies regarding Water Rights, Water Use and Groundwater Wells



Guide to Colorado Well Permits, Water Rights, and Water Administration

Available on DWR website at: [water.state.co.us/pubs/welpermitguide.pdf](http://water.state.co.us/pubs/welpermitguide.pdf)

