

NORWEST

CORPORATION



For More Information Contact:

Angela Welch
Hydrologist
Norwest Corporation
Denver, Colorado
Tel: 720-889-6116
awelch@norwestcorp.com
www.norwestcorp.com

Introduction

Colorado water law is based on the doctrine of prior appropriation or “first in time – first in right”. The system gives older or senior water rights priority over newer or more junior water rights. Water rights can be established for both surface and groundwater and are administered by the Colorado State Engineer. The system is designed to protect holders of senior water rights from injury by holders of more junior water rights. Injury to senior water rights can be mitigated by stopping diversions of surface water or replacing out of priority surface water depletions caused by pumping groundwater.

A water right may be held by any legal entity, including an individual, group of individuals, organization, corporation, government agency, etc. The only restriction on who can hold a water right concerns instream flow rights which can only be held by the Colorado Water Conservation Board. In Colorado, beneficial uses include agricultural, domestic, industrial, groundwater recharge, and municipal uses.

Application Process

In Colorado, water rights are established through a water court system. For each of the seven major river basins, there is a water court that adjudicates water rights within that basin. Every water right application must go through the appropriate court to establish the water right, priority, and amount. Once the application is filed with the appropriate court, a summary is published in the local newspaper and “the resume.” The resume is a publication that contains all applications with a particular court each month.

Statements of opposition may be filed within forty-five days of publication of the application. A statement of opposition must outline reasons why the application should not be granted or should be amended. Once the application and statements of opposition are reviewed, the application is either approved or disapproved (in whole or in part).

Groundwater

Use of groundwater is governed by the Ground Water Management Act of 1965, which was adopted to allow the economic development of water resources while protecting the rights of senior appropriators. In the state of Colorado all groundwater is considered to be a tributary to a surface stream, unless shown otherwise in water court. Pumping of nontributary groundwater must be shown to not deplete surface streams by more than 1/10 of 1% of the proposed diversion volume in any single year for up to 100 years. Production of tributary groundwater falls under the prior appropriate system except for certain categories of exempt wells and specifically designated areas such as the Denver Basin.

A new well that diverts groundwater must have a well permit issued by the State Engineer. This permit must be obtained prior to any utilization of groundwater but does not confer a water right to the groundwater. Smaller capacity wells for household livestock use are required to have well permits but are usually exempt from the requirements to obtain a water right and to mitigate any surface water depletions. Other wells are non-exempt and are required to replace any out of priority depletions.

Coalbed Methane Wells

The production of groundwater as part of coalbed methane (CBM) well operation has been ruled a beneficial use in Colorado. A water well permit must be obtained for each CBM well and any out of priority depletions must be replaced. The CBM operators in the Raton Basin have determined the time, place, and amount of out of priority depletions using a computer model of groundwater flow in the basin. The operators are currently mitigating stream depletions using a State Engineer approved plan.

Additional information on Colorado Water Rights can be found at the website: www.ratonbasinwatershed.org.