

# **NON-ATTORNEY'S GUIDE TO COLORADO WATER COURTS**

## **INTRODUCTION**

The purpose of this guide is to assist you through the most common water court processes. These processes include applying for a water right and opposing an application for a water right.

### **THIS GUIDE IS NOT A SUBSTITUTE FOR LEGAL ADVICE.**

Water court proceedings are often complex. While this guide provides an overview of the process, and water court personnel can provide basic information concerning the status of an application, neither resource can give you legal advice about the specific steps you need to take to pursue your application or your opposition to someone else's application. Only an attorney can provide you with legal advice.

All parties participating in the water court must follow the legal requirements and rules. This is true whether or not you hire an attorney. Within Section Eight of this guide, there is a list of resources where you can locate the statutes (laws), forms, and rules, as well as a general guide to Colorado water law.

This guide does not address the right to withdraw "designated" ground water, which is handled by the Colorado Ground Water Commission via the Office of the State Engineer, or well permitting, which is handled by the Office of the State Engineer.

## TABLE OF CONTENTS

- ❖ **SECTION ONE – Page 5:** Describes the **Colorado water court system**.
- ❖ **SECTION TWO – Page on page 7:** Reviews the different types of **water court forms and filing fees**.
- ❖ **SECTION THREE – Page 9:** Concerns **preparing and filing a water rights application**.
- ❖ **SECTION FOUR – Page 11:** Describes **how to prepare and file a statement of opposition** in a water rights case.
- ❖ **SECTION FIVE – Page 12:** Describes the **water court process after the application is filed**.
- ❖ **SECTION SIX – Page 15:** Explains **what happens if a case is directed to the water court’s trial track**.
- ❖ **SECTION SEVEN – Page 16:** Lists **key definitions** involved in the water court process.
- ❖ **SECTION EIGHT – Page 18:** Describes **where to find resources and additional information** related to water law and the water court process in Colorado.

## SHOULD YOU PARTICIPATE WITHOUT AN ATTORNEY?

Water law is complicated. Most people hire an attorney to help them navigate the water court process. Many water cases also require an engineer or a hydrologist who can provide technical information needed to support an application or statement of opposition. A party participating without an attorney is known as a self-represented party. While persons may opt to participate without an attorney, obtaining legal advice and representation is highly recommended due to the complexity of the water rights adjudication process. In accordance with Rule 11(b) of the Colorado Rules of Civil Procedure and Rule 1.2(c) of the Colorado Rules of Professional Conduct, self-represented parties may seek limited representation, or “unbundled” legal services, from attorneys to, for example, simply obtain help with filling out water court application forms.

## QUESTIONS TO CONSIDER BEFORE FILING WITHOUT AN ATTORNEY

- 1. Who may file without an attorney in water court?** Individuals may file water right applications and statements of opposition as self-represented parties and may participate individually in the case when the application is before either the water referee or the water judge. Corporate or other organizational parties may file applications and statements of opposition as self-represented parties and otherwise participate in the case when the application is before the water referee (or the water judge acting as a water referee), but must hire an attorney to participate in a case before the water judge.
- 2. What are the pros and cons of representing oneself?** Self-represented parties do not incur the cost of hiring an attorney. However, if you are representing yourself, you will be expected to know the applicable laws, rules, and court procedures in the same way that an attorney would. For instance, if you are representing yourself, you must know and comply with the water court’s procedural requirements, which an experienced attorney will already know. Also, you will be responsible for knowing what tasks you need to complete in order to advance your case. The water court process can be quite time consuming. In deciding whether to hire an attorney, you should consider time constraints, costs, and the importance and complexity of the issues in the case. When legally and technically complex issues are involved, most people hire an attorney and a technical consultant.
- 3. Who must prove facts and meet legal requirements in water court?** The applicant must prove the elements of a new water right (e.g. the source of water, the location of the point of diversion, the date of appropriation, the amount of water to be diverted, and the beneficial use to which the water will be placed). In change of water right and plan for augmentation applications, the applicant must also prove the absence of material injury to other water rights from the proposed change or plan. This requires the applicant to present evidence (testimony and exhibits). In change of use and plan for augmentation cases, applicants usually must hire a hydrologist, water engineer, or other technical expert to help prove the absence of injury to other water rights.

Opposers may participate in new water right proceedings to require the applicant to prove the elements of a new right. In order to argue injury to a water right in a change of use or plan for augmentation case, the opposer must have a water right that could be injured by the proposed change or plan. At times, an opposer may also be required to prove certain claims.

If the court finds that the applicant has met his/her burden of proof, and the opposer does not agree, the opposer would need to support his/her position with credible evidence. All parties must obey all rules and court orders concerning the presentation of evidence.

**SECTION ONE**  
**COLORADO WATER COURTS AND DIVISIONS**

There are seven water divisions, which each have at least one water judge and water clerk. Most also have a water referee. A division engineer administers water rights in each division, and also plays a role in the water court process.

See: <http://water.state.co.us/DataMaps/GISandMaps/Pages/default.aspx> for a map of the water divisions and water basins in Colorado.

**Your case must be filed in the proper water court.** This means your case must be filed in the water court division in which the water matter is located.

<p><b>Water Division 1</b>            (South Platte Basin)            901 9th Avenue            P. O. Box 2038            Greeley, CO 80632            (970) 475-2507</p> <p>Division Engineer's Office: (970) 352-8712</p>	<p><b>Water Division 2</b>            (Arkansas River Basin)            501 N. Elizabeth Street            Pueblo, CO 81003            (719) 404-8700</p> <p>Division Engineer's Office: (719) 542-3368</p>
<p><b>Water Division 3</b>            (Rio Grande Basin)            702 Fourth Street            Alamosa, CO 81101            (719) 589-4996</p> <p>Division Engineer's Office: (719) 589-6683</p>	<p><b>Water Division 4</b>            (Gunnison, Uncompahgre, and San Miguel River Basins)            1200 North Grand Avenue, Bin A            Montrose, CO 81401            (970) 252-4304</p> <p>Division Engineer's Office: (970) 249-6622</p>
<p><b>Water Division 5</b>            (Main Stem of Colorado River)            109 Eighth Street, #104            Glenwood Springs, CO 81601            (970) 928-3062</p> <p>Division Engineer's Office: (970) 945-5665</p>	<p><b>Water Division 6</b>            (Yampa, White River, Green &amp; North Platte River Basins)            1955 Shield Drive, Unit 200            Steamboat Springs, CO 80487            (970) 879-5020</p> <p>Division Engineer's Office: (970) 879-0272</p>
<p><b>Water Division 7</b>            (San Juan, Piedra, Las Animas, Los Pinos,            La Plata, and Mancos River Basins)            1060 East Second Avenue, Room 106            Durango, CO 81301            (970) 247-2304 x 6181</p> <p>Division Engineer's Office: (970) 247-1845</p>	

## **PERSONS INVOLVED IN WATER COURT CASES**

### **WATER JUDGE**

Water judges are district court judges. They have the authority to confirm water rights and determine all other water matters within their water division. Water judges need to sign a water referee's ruling to make it a decree of the court. When cases are "re-referred" to the water judge, or there is a protest of a water referee's ruling, the case will be set for trial to the water judge.

### **WATER REFEREE**

The water judge typically refers applications to a water referee. The water referee then has the authority to investigate each application, make rulings, and issue referee rulings for consideration by the water judge. Many cases reach resolution while they are before the water referee.

The water referee provides an impartial forum for the parties to work together to achieve a successful outcome. To advance resolution, the water referee may hold telephone status conferences throughout the process to keep the parties on track. The water referee investigates each application to determine whether the statements in the application and statements of opposition are true. Sometimes site visits are appropriate and arranged by the water referee. The water referee also consults with the division engineer (see below) regarding applications filed with the court.

One of the responsibilities of the water referee is to determine whether a referred case that is opposed by some other party can likely be resolved to the satisfaction of the parties within an 18-month period. If so, the referee will retain authority over the case. If not, the matter may be re-referred to the water judge. A case that is re-referred to the water judge is said to be on a "trial track."

### **WATER CLERK**

The water clerk receives, numbers, and maintains applications, statements of opposition, and all other documents filed in water cases. All filings must be made with the water clerk using the court approved e-filing system. Because only attorneys may access this system, self-represented parties filing applications, statements of opposition, or other documents must file one paper copy of each document with the water clerk.

### **DIVISION ENGINEER**

The Colorado Division of Water Resources ("CDWR") reviews applications for water rights. The division engineers are the chief CDWR officials for each water division. After consultation with the water referee, the division engineer submits a "Summary of Consultation" or "Consultation Report" to the water court, with recommendations. This report discusses any issues, problems or questions about the application. If the state or division engineer becomes a party to the case, the summary of consultation process is suspended. Below is the contact information for the division engineer's office in the seven water divisions.

**Division 1:** (970) 352-8712

**Division 2:** (719) 542-3368

**Division 3:** (719) 589-6683

**Division 4:** (970) 249-6622

**Division 5:** (970) 945-5665

**Division 6:** (970) 879-0272

**Division 7:** (970) 247-1845

## SECTION TWO

### WATER COURT FORMS AND FILING FEES

Each water court form contains detailed descriptions of the information each applicant must provide the court. Failure to submit forms containing the necessary information may result in rejection of your application or delay in your application proceeding. Handwritten forms must be legible. Applicants and opposers should read every line and fill in every blank. Use “n/a” if a section of the form does not apply to your situation.

The water court forms and instructions can be found at the Colorado Judicial Branch website. From [www.courts.state.co.us](http://www.courts.state.co.us), click on the “Forms” tab, and then click on “Water” to get to the water court forms page.

Form Number	Form Name
<b>JDF 295W</b>	<b>Standardized Instructions for all Colorado Water Court Divisions</b>
JDF 240W	Application for Correction of Erroneously Described Point of Diversion
JDF 241W	Application for Simple Change in Surface Point of Diversion
JDF 290W	Certificate of Notice
JDF 296W	Application for Surface Water Rights (e.g. spring or ditch)
JDF 297W	Application for Water Storage Right
JDF 298W(a)	Application for Underground Water Right
JDF 298W(b)	Application for Underground Water Right for an Exempt Well (e.g. domestic well or stock well)
JDF 299W	Application for Change of Water Right
JDF 300W	Application for Finding of Diligence or to Make Absolute
JDF 301W	Application for Approval of Plan for Augmentation
JDF 302W	Pleading in Protest or Support of Referee’s Ruling
JDF 303W	Statement of Opposition
JDF 304W	Protest to Revised Abandonment List
JDF 307	Notice of Change in Ownership of Conditional Water Right and/or Change of Address
JDF 308W	Denver Basin Application (i.e. Application to quantify groundwater in Denver Basin aquifers)
JDF 312	Declaration of Expert Regarding Report, Disclosure, and Opinion
JDF 319	Sample Modified Case Management Order

## FILING FEES

Filing fees for applications and statements of opposition or protest to an application (effective February 2014) are listed below. These fees are subject to change. Current filing fees can also be found on the Water Court filing fee chart through the Colorado Judicial Branch website at [http://www.courts.state.co.us/userfiles/file/Self\\_Help/FeesChart%20-%20JDF1%20\(Final%20-%20%20R8%2013\).pdf](http://www.courts.state.co.us/userfiles/file/Self_Help/FeesChart%20-%20JDF1%20(Final%20-%20%20R8%2013).pdf).

<b>Application</b>	<b>Filing Fee</b>
<b>Application, Complaint, Petition, or any other pleading initiating a water matter</b>	<b>\$224.00</b>
Application for Change of Water Right or Approval of Plan for Augmentation	\$447.00
Protest to Abandonment List	\$45.00
Statement of Opposition	\$158.00
Protest to Referee Ruling (no fee if already party)	\$158.00
Certification Fees	\$20.00
Copies	\$0.75 per page



## **SECTION THREE**

### **THE APPLICATION PROCESS**

#### **USE THE CORRECT FORMS**

Once you have determined the type of water right you are seeking, you must use the correct forms. The forms are available, as described above, at <http://www.courts.state.co.us>. Each form contains a detailed explanation of the information needed for you to complete the entries timely and accurately. If you do not have internet access, please see the water clerk, who can provide you with the forms you need.

#### **COMPLETE THE APPLICATION**

You must fill out the application accurately and completely. The application forms are designed to present the essential facts that form the basis or elements of a water right. The court must verify these facts as true in order to act favorably on an application. Failure to provide complete and accurate information may result in delays, additional costs, or even dismissal of the case. The water clerks are available to answer any questions you have; however, they cannot provide any legal advice.

#### **SIGN THE VERIFICATION AND ACKNOWLEDGMENT**

The last page of each application contains a “Verification and Acknowledgment” section. This verification and acknowledgment must be signed by the person who can verify that the information contained in the application is accurate and complete. As the applicant, you sign the application and often the applicant is the individual who signs the verification and acknowledgment as well. Others who might sign the verification and acknowledgment are an engineer or other professional who provided significant information included in the application. The signature on the verification and acknowledgment must be witnessed and acknowledged by a notary public or water clerk.

#### **INCLUDE ACCOMPANYING DOCUMENTS**

Include all additional documents as indicated on the application.

#### **FILE WITH THE WATER CLERK**

If you are a self-represented party, file your completed original application with the water clerk. Your case will be assigned a case number at the time of filing. Your case must be filed in the proper water court division.

#### **PAY FILING FEES**

Filing fees are due at the time your application is submitted. Fees can be paid by check. Cash and credit cards are also accepted by most divisions.

#### **NOTIFY LANDOWNERS**

Applicants must, by certified or registered mail, notify landowners who may be affected by the application. A copy of the application must be mailed to certain persons or entities whose property could be impacted by your proposed water right, including “the owner of land upon which any new diversion or storage structure, or modification to any existing diversion or storage structure or storage pool, is or will be constructed, or upon which water is or will be stored.” This language comes directly from § 37-92-302(2)(b)(II), C.R.S. The applicant must mail such notification to

landowners within 14 days of filing the application. The proper form is attached to the application.

### **PREPARE/PAY FOR “RESUME” PUBLICATION**

The “water resume” is a document that summarizes the requested water rights contained in applications. Each month, the water clerk compiles the water resume for all of the applications to be published in that month. Applicants may provide the resume for their application to the water clerk. If a self-represented applicant does not provide the resume, the water clerk will write one for the applicant. The water court will enter an order of publication requiring publication of your application resume in one or more area newspapers. The water clerk will send the notice to be published to the newspapers. Each newspaper will bill you directly. After you pay the newspaper, the newspaper will send you an affidavit of publication and an original copy of your published resume. You must file these documents with the court as proof of publication. The court cannot issue a decree until you have filed all of the required publication affidavits.

### **SERVE DOCUMENTS**

After you file your application you must serve all other documents that you file with the water court on all other parties to the case. Self-represented parties must serve the other parties by first class mail, hand delivery, or other approved method or service, and must file a certificate of service with the water court confirming that they did, in fact, serve the parties.

### **SUMMARY OF STEPS TO OBTAIN A DECREE**

The following list summarizes the steps for obtaining a decree. This list is a guideline and is not intended to address all situations.

1. The applicant must intend to make a beneficial use of the water.
2. The applicant must demonstrate this intent openly, for example, by conducting field surveys, posting notice at a diversion point, filing a water right or well permit application, or legally diverting the water and placing it to beneficial use.
3. The applicant must file an application with the correct water court clerk, using the proper form and providing all required information.
4. Notice of the application must be published in the monthly water court resume and in area newspapers as ordered by the water judge. The applicant is responsible for the costs of such publication.
5. The statutes allow two months for parties to file statements of opposition.
6. The division engineer will review the application.
7. Staff from the division engineer’s office perform field investigations to confirm the claims in the application.
8. After consultation with the water referee, the division engineer submits a written report to the water court, with recommendations.
9. The application is reviewed by a water referee. If insufficient or inaccurate information is provided, then the referee may order that additional or corrected information be provided to support the application, and may also order re-publication of the application. If a party has filed a statement of opposition to the application, the referee works with all parties to establish a case management plan to resolve any issues.
10. The water referee issues a ruling; Section 5 discusses further steps in the process.

## **SECTION FOUR**

### **OPPOSITION**

#### **STATEMENT OF OPPOSITION**

If you want to object to a recently filed water court application, you may enter a case by filing a statement of opposition using JDF 303W. The statement of opposition must be filed no later than the last day of the second month following the month in which the application is filed. For example, if an application is filed in January, the statement of opposition must be filed no later than the last day of March. As with the application, specific information is required in order to successfully file a statement of opposition.

#### **VERIFICATION AND ACKNOWLEDGMENT**

Your statement of opposition must include a signed and notarized verification and acknowledgment. A notary public or water clerk must witness and acknowledge the signature on the verification and acknowledgment.

#### **ACCOMPANYING DOCUMENTS**

Include additional documents as indicated on the statement of opposition form. Failure to include these documents could result in rejection of your statement of opposition.

#### **SERVICE OF DOCUMENTS**

After you file your statement of opposition with the water court, you must serve your documents on all other parties to the case by first class mail, hand delivery, or other approved method of service, and must file with the water court a certificate of service. You can get the addresses of the other parties in the case from the water clerk.

#### **FILING FEES**

Filing fees are due at the time your statement of opposition is submitted.

## **SECTION FIVE**

### **AFTER THE APPLICATION - WHAT HAPPENS NEXT?**

#### **PROCESS**

As the applicant, you have responsibilities and deadlines to meet to move the application through the water court process. Once the water court approves your application for publication in the water resume, the water judge will typically refer it to the water referee for handling. If your case is not referred to the water referee and remains on the trial track of the water judge, you must meet very specific deadlines and file certain documents with the water court. Applicants are highly encouraged to seek legal advice and representation from an attorney at this point. Failure to understand and comply with deadlines can result in dismissal of your application.

#### **OPPOSED APPLICATIONS**

The water referee works with the parties to develop a timeline within which to proceed. If a case is not resolved in front of the referee within 12 months from the deadline to file a SOP, the case can be re-referred to the water judge for trial. The water referee has discretion to extend that timeframe by up to 6 more months. Any party may file a motion to re-refer the case to the water judge at any time unless otherwise specified in the case management plan. If the parties agree that the case should proceed before the water referee, the parties waive their right to request re-referral to the water judge for the time set forth in the case management plan.

#### **BURDEN OF PROOF**

The applicant bears the burden of proving that he or she is entitled to have the application approved. In change of water right and augmentation plan cases, the applicant must show that its proposed water use, if decreed, will not injure other water rights.

#### **UNOPPOSED APPLICATIONS**

If you have filed an application and no one files a statement of opposition, the water referee will work to enter a ruling and proposed decree within two months after the statement of opposition deadline, but may extend this time for good cause.

#### **RE-REFERRAL**

If requested by a party, or if the water referee chooses, the water referee will re-refer the application to the water judge for trial.

#### **SUMMARY OF CONSULTATION**

The water referee consults with the division engineer, who then issues a written “summary of consultation” or “consultation report” within 35 days after the consultation. This report discusses any issues, problems, questions, or specific requirements that the division engineer or water referee has concerning the proposed water right. The summary of consultation will often specify the date by which the applicant must respond to the summary of consultation. The applicant should review the summary of consultation and file a written response to it with the court in a timely manner.

#### **STATUS CONFERENCE**

The water referee holds status conferences (usually by telephone) to manage cases that are opposed. At an initial status conference, the referee and the parties will establish a case management plan, containing a directional road map dictating a reasonable expectation of time needed to complete the process. All parties are expected to contribute to the drafting of the case management plan, which sets forth deadlines for completion of the necessary submittals. At subsequent status conferences, the parties will update the court on progress made toward resolution of the case, and the referee will likely set additional deadlines to further facilitate resolution. Key to the success of this process is a willingness of the parties to cooperate by participating in discussions, sharing information and working to resolve issues that may stand in the way of a final amicable resolution. Parties are given an opportunity to discuss their issues, and the process of identifying key areas of negotiation will begin.

It is extremely important to be fully prepared for each status conference and to complete all tasks ordered in earlier status conferences. Failure to meet your commitments may result in the water referee dismissing your application or statement of opposition.

### **STIPULATIONS BETWEEN THE PARTIES**

When parties are able to agree on a ruling (when the case is before a water referee) or a decree (when the case is before a water judge), they typically sign a stipulation stating that they have agreed upon a complete or partial form of ruling or decree. The water referee or water judge may accept and enter the stipulation in the case, but is not required to do so.

### **PROTESTS**

Any party to the case or any other person (including the division engineer) may file a protest with the water court 21 days after the water referee enters the ruling in the case. Protests may be filed using JDF 302W. Protested rulings are set for trial.

### **DECREE**

Water referee rulings not protested may be entered by the water judge as part of a final water court judgment in the case. In order for a water right to be administered, the water court must enter a final decree. The final decree is entered by the water judge.

### **TIMELINE FOR CASE BEFORE REFEREE**

The chart on the following page contains a general description of the timelines for cases before a water referee. The case management plan will set the actual timeline for completion of the necessary tasks in a case. It is extremely important that parties pay close attention to the case management plan and the directions and orders from the water referee. Due to the complex nature of these cases, it is highly recommended that parties obtain legal advice and representation from an attorney.

<b>Deadlines and Rules</b>	<b>Time Period</b>	<b>Additional Comments</b>
Deadline for referee issuing ruling when application is unopposed. Water Court Rule 6(e).	60 days after last day on which SOP may be filed. C.R.S. § 37-92-303(1).	The referee may extend this deadline in certain circumstances. Water Court Rule 6(f).
Deadline for Division Engineer's Summary of Consultation. C.R.S. § 37-92-302(4).	Within 35 days of the date the referee initiates consultation for all water rights except groundwater rights, which require the Summary of Consultation within 4 months of consultation initiation.	Upon request, the referee may extend this deadline. The deadline for the division engineer's summary of consultation regarding well construction is four months after the filing of the application, and the referee may extend this deadline upon request.
Deadline for initial status conference if SOP is filed. Water Court Rule 6(h).	Within 60 days after the deadline for filing SOP.	The referee may extend this deadline for good cause.
Deadline for filing proposed decree, commenting on proposed decree, filing status reports, and further proceedings. Water Court Rule 11(b)(F).	Decree is submitted as soon as possible by Applicant for consideration and comments by Opposers.	The referee and parties establish a case management plan. The referee has authority to dismiss for failure to comply with the requirements of the rules or the case management plan.
Deadline for Referee to issue ruling where application is opposed and parties agree to remain before Referee. Water Court Rule 6(m).	Within one year following the deadline for filing SOP.	The referee may extend this deadline or re-refer the case to the water judge in certain circumstances.
Deadline to protest the Referee ruling or case dismissal by the Referee. C.R.S. § 37-92-304(2).	21 days.	

## **SECTION SIX**

### **PROCEEDINGS BEFORE THE WATER JUDGES**

Cases re-referred or protested to the water judge become very complicated and involve numerous deadlines and filings. Applicants bear the burden of proving facts and meeting legal requirements, and failure to do so will result in dismissal of the application. Significant time and expense are involved in the pre-trial and trial process. It is highly recommended that applicants and opposers retain an attorney to guide them through the process (ditch companies and other organizational parties must have an attorney once the case is before the water judge). Frequently, applicants and opposers will also need to retain an expert who can testify on technical issues. The Colorado Rules of Civil Procedure describe the pre-trial and trial process in detail. Specific rules describing the process include Rule 11, Rule 16, and Rule 26. Applicants should obtain legal advice and representation in order to ensure full compliance with all applicable rules and requirements.

## **SECTION SEVEN**

### **DEFINITIONS**

*Abandonment.* Loss of whole or part of an absolute water right by intent to permanently discontinue use. Period of non-use for ten consecutive years raises rebuttable presumption of abandonment. A conditional water right is conclusively presumed to be abandoned if an application for finding of reasonable diligence is not made within six years of the entry of the conditional decree or the most recent diligence decree. Water rights are declared abandoned through a water court proceeding.

*Acre-Foot (ac-ft or AF).* Volumetric measurement of water used for quantifying reservoir storage capacity and historic consumptive use. This is the amount of water that will cover an acre of land at a depth of one foot, or 325,851 gallons of water.

*Adjudication.* The process for obtaining a water court decree for a conditional water right, a finding of reasonable diligence, an absolute water right, an exchange, a right to withdraw nontributary water or Denver Basin groundwater that is outside of a designated groundwater basin, or approval of a plan for augmentation or change of water right.

*Appropriation.* Placement of a specified portion of water to a beneficial use pursuant to the procedures prescribed by law. The appropriator must have its own use for the water or have a contract to serve the customers that the water will benefit. The appropriator must have a plan to divert, store, or otherwise capture, possess and control the water for beneficial use.

*Augmentation.* Replacing the quantity of water depleted from the stream system caused by an out-of-priority diversion.

*Beneficial Use.* The basis, measure and limit of a water right. Colorado law broadly defines beneficial use of water as a lawful appropriation that uses reasonably efficient practices to put that water to use without waste.

*Change of Water Right.* Changing the elements of a water right, such as changing the location of a point of diversion, changing the type of use or place of use, requires water court approval. Changes of water rights can be approved if such changes can be shown not to injure other established water rights. This process can be very difficult. In recognition of this, the Legislature has recently taken measures to provide relief in certain circumstances. Determining eligibility can be complicated, and careful reference to the applicable statutes, C.R.S. § 37-92-305(3.5) and (3.6), or consultation with an attorney is advised.

*Colorado Revised Statutes (C.R.S.).* The annual compilation of Colorado statutes and court rules published by the Colorado General Assembly.

*Cubic Feet per Second (cfs).* A rate of flow of water passing a given point each second of time, amounting to one cubic foot. This is equal to 7.48 gallons per second, 448.8 gallons per minute or approximately two acre-feet per day.

*Diligence.* Reasonable progress towards making a conditional water right absolute by putting



unappropriated water to a beneficial use. Diligence must be proved in a water court proceeding every six years after entry of the conditional decree. Acts demonstrating diligence include engineering, permitting, financing and construction of water facilities needed to complete water diversion and delivery to the place of use.

*Diversion.* Removal of water from its natural course or location, or controlling water in its natural course or location, by means of a water structure such as a ditch, pipeline, pump, reservoir, or well.

*Injury.* The action of another that causes or may cause the holders of decreed water rights to suffer loss of water at the time, place and amount they would be entitled to use under their water rights if the action had not occurred.

*Priority.* The ranking of a water right vis-à-vis all other water rights drawing on the surface stream and tributary groundwater system, determined by the year in which the application for the water right was filed. The date the appropriation was initiated determines the relative priority of water rights for which applications were filed in the same year.

*Water Right.* A property right to the use of a portion of the public's surface or groundwater resource obtained under applicable legal procedures.

## **SECTION EIGHT**

### **RESOURCES AND ADDITIONAL INFORMATION**

Many documents related to existing water rights are available on the State Engineer's website: <http://water.state.co.us>. If you do not have access to the internet, staff at the State Engineer's Office can assist you in obtaining the information you need. The Denver office of the State Engineer is located at 1313 Sherman Street, 8th Floor, Denver, Colorado. The phone number is 303-866-8293.

If you need to determine property owners in order to provide notification of your application, you can visit your county clerk and recorder office. If you have internet access, check the online system for your county first, as these records are often available online. See <https://www.sos.state.co.us/pubs/elections/Resources/CountyElectionOffices.html>.

The following links will take you to information that will help you navigate the water court system:

*Relevant Colorado Statutes:* Go to the home page of the Colorado General Assembly (<http://www.leg.state.co.us/>) and search for Colorado Revised Statutes, Title 37, Article 92, the Water Right Determination and Administration Act by clicking on "Statutes and Session Laws" and then "Colorado Revised Statutes and Constitution." The statutes can be found directly at <http://www.lexisnexis.com/hottopics/colorado/>.

*Colorado Water Court Rules:* <http://www.courts.state.co.us/Courts/Water/Rules.cfm>.

*Colorado Water Court Application Forms:*  
[http://www.courts.state.co.us/Forms/Forms\\_List.cfm?Form\\_Type\\_ID=10](http://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=10).

*Colorado State Engineer's Website:* <http://www.water.state.co.us/>.

*State Engineer's Guide to Well Permits, Water Rights, and Water Administration:*  
<http://water.state.co.us/DWRIPub/Documents/wellpermitguide.pdf>.

*Colorado Ground Water Commission* (involved only with "designated" ground water—water court adjudicates rights to use all other ground water): <http://water.state.co.us/cgwc>.

*Citizen's Guide to Colorado Water Law* (published by Colorado Foundation for Water Education):  
<http://www.yourwatercolorado.org/flip/catalog.php?catalog=waterlaw>.

Michael Browning, *A Summary of Colorado Water Law*: 21 *The Colorado Lawyer* 63 (January 1992).

## **STATUTES**

Statutes govern the water right adjudication process. The Colorado Revised Statutes use the following format: C.R.S. § [title no.]-[article no.]- [section no.]. The primary set of statutes governing the water right adjudication process is the “Water Right Determination and Administration Act of 1969,” which is found at C.R.S. §§ 37-92-101 through -602. To access these statutes, follow the link in the “Resources” section of this guide. The Colorado Revised Statutes are updated after the most current General Assembly session has concluded. Be sure to check the most recent version.

## **FORMS**

Water court forms and instructions can be found at [www.courts.state.co.us](http://www.courts.state.co.us). Under “Forms,” click on “Water”. General and specific instructions accompany the forms. Applicants must carefully read all applicable instructions.

## **RULES**

Specific rules govern water court proceedings such as the Uniform Statewide Rules for All Water Court Divisions, or Water Court Rules, and certain rules of the Colorado Rules of Civil Procedure. The relevant rules can be found at [www.courts.state.co.us](http://www.courts.state.co.us) under “Courts” and then “Water Courts.”

**This guide was prepared by the Water Court Committee of the Colorado Supreme Court.  
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