

## **What Landowners Need to Know about Water Use on Rural Home Parcels**

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Since Statehood, Colorado has allocated water based upon the prior appropriation doctrine, aka the Colorado Doctrine. Since Colorado exists in an arid climate the principles of water allocation are very important. In fact, Coloradoans have a constitutional right to the appropriation and use of water from the public streams. However, that appropriation can only be carried out when in priority. Since water is scarce it must be rationed based upon the concept of “first in time is first in right”. Water rights that are more junior are turned-off to supply water first to the oldest rights, referred to as senior rights, based upon the relative scarcity of water. Ground water and surface water is allocated under the same system. The source of nearly all residential water is derived from ground water through wells drilled into the aquifer. In the Upper Arkansas Basin this water is connected to the surface streams where the majority of rights are senior to ground water wells. In order to legally obtain water from a well, spring, or surface stream when not in priority the users must replace all the depletions (losses) they cause to the senior water rights to prevent injury to these water rights. This can only be done through an adjudicated plan of augmentation.

Municipal water supplies as well as residential water supplied through an on site well fall under the same rules/laws. In cities and towns water is supplied through a water main tap to each home. Cities and Towns have combinations of augmentation plans and senior water rights that provide a legal source of water for its residents.

Rural on site supplies of water derived from wells for residential use are permitted pursuant to either an exempt permit or through an augmented well. In some subdivisions water is supplied through a central water system. A central water system may be composed of a gallery of wells that then supply water to each of the lots in the subdivisions. Homeowners Associations or some single entity usually operates these systems and collects fees from each lot owner to pay for the cost of supplying this water and is responsible for the operation of the augmentation plan making sure adequate replacements are made to the impacted stream. Most common are individual on site wells that supply water to each home and lot. In this case the responsibility for compliance with augmentation plans rest with the homeowner.

Lots of 35 acres or more are eligible for a domestic exempt well permit. The amount of use allowed from this type of an exemption varies. The maximum allowance typically allows uses inside three residential dwellings on the same parcel, the irrigation of up to one acre of residential lawns and gardens, and watering of domestic livestock. Commercial uses are not allowed on a domestic exempt permit. For instance, the use of water for a commercial garden is not allowed and would have to be augmented. An exempt well may not be used in combination with non-exempt or augmented uses.

On parcels of land that were subdivided prior to June 1, 1972, an exempt well permit can be obtained for uses inside of one single family dwelling. Parcels of land subdivided into smaller than 35 acres after this date must have a decreed plan of augmentation.

There are many augmentation plans in the Upper Arkansas Basin that date from the early 1970's. These plans were developed in many of the earlier subdivisions of land in the basin. In 1994 the Upper Arkansas Water Conservancy District obtained a decreed Umbrella Augmentation Plan the

covered a major portion of Chaffee and Western Fremont County. Since several other decrees were obtained integrating the 1994 and this Umbrella plan now covers most of Chaffee and Fremont Counties and a portion of Custer County. An umbrella plan differs from an individual subdivision plan in that it provides for sources of replacement water for a variety of uses and types of diversions or structures, such as ponds, springs, or direct surface diversions, over a large geographic area. Because of the economies of scale this can be provided at a greatly reduced cost. Presently, the initial cost for a single family residence with approximately 1400 square feet of lawn or gardens is \$4,315. This allows the ability to pump approximately 127,000 gallons of water per year. Upon purchase, the typical processing time and approval of the well permit takes about 100 days. More information and applications can be found online at [www.uawcd.com](http://www.uawcd.com).

Once the lot owner obtains a well permit, they need to contact a well driller. The well driller can assist with finding a good location for construction of the well. After construction, the well driller will file a construction report with the Colorado State Engineer's Office, Department of Water Resources. Augmented wells require installation of a totalizing flow meter and compliance with the requirements stipulated in the water court decree, such as timely reporting of meter readings, compliance with the annual pumping allowance, compliance with the uses being augmented, and remittance of any annual fees to the Homeowners Associations or in the case of the District Augmentation plan to the District.