

UNDERSTANDING COLORADO WATER LAW

Colorado Doctrine

Colorado's complicated water use system has developed out of periods of scarcity and diverse water needs. Dating back to the 1860s, Colorado water law has proven to be adaptable and considerate of all water needs.

The *Colorado Doctrine* of water law was developed in the 1860s and includes these principles:

1. Surface and ground water belong to the public.
2. A water right is the right to use a specific portion of this public resource for a beneficial use.
3. A water right may allow the owner the right to divert or store water. They own the right, not the water!
4. Water right owners can use streams to transport water.

An acre foot is the volume of water it would take to cover an area approximately the size of a football field with one foot of water. That's 325,851 gallons! It is one means of measuring water storage.

Prior Appropriation System

Colorado uses a Prior Appropriation System to decide who gets water rights and when they can use them. It is often summarized as "first in time, first in right." In times of short supply, **senior rights** have priority over later-acquired **junior rights**. Under the system, there are two types of water appropriation rights: **storage rights** and **direct flow rights**. The latter takes water directly from a stream or aquifer. Water rights may be bought and sold, however a change of use or location must be approved by one of the seven Water Courts.

CFS is a measure of water flow. It stands for cubic feet per second.

A water right specifies the amount of water, the **beneficial use**, the location of diversion and the dates of appropriation and adjudication, which determine its priority. These are types of beneficial use:

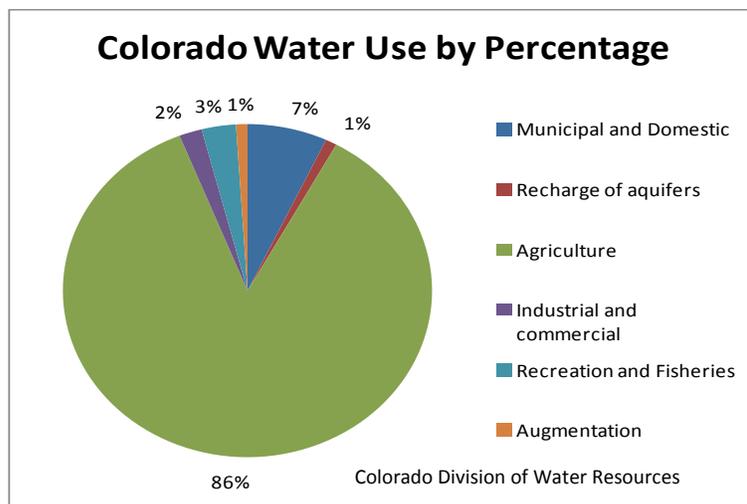
Augmentation

*Instream flows and natural lake levels
Dust suppression
Fire and wildlife culture
Industrial
Mined land reclamation
Nature centers
Fire Protection
Recreation*

Commercial

*Domestic
Fire protection
Flood control
Irrigation
Municipal
Power generation
Water from gas production
Snow making*

Colorado Water Use by Percentage



Want to learn more? Check out the *Colorado Division of Water Resource's Synopsis of Colorado Water Law* at <http://water.state.co.us/DWRIPub/DWR%20General%20Documents/SynopsisOfCOWaterLaw.pdf> or *CFWE's Citizen's Guide to Colorado Water Law* at <http://www.cfwe.org/flip/catalog.php?catalog=waterlaw>

A senior user may call for their water right when there is insufficient water available to fulfill their water right. Consequently, the State Engineer or the respective division engineer is required to curtail junior diversions to the extent necessary to fulfill senior rights.

Augmentation is a process in which a junior user diverts water out of priority and the replaces the amount they are depleting, thus avoiding injury to senior rights.

Instream flows and **natural lake levels** are minimum levels needed to preserve the natural environment. This is a relatively new type of “beneficial use.”

Return flows make their way back to the river and or aquifer after they have been used. For example, after water has been used for agriculture, a portion may flow back to the river either directly or through groundwater. The rest of the water used for agriculture is consumed, or lost, through evapotranspiration. Evaporation and evapotranspiration represent **consumptive uses** of water. Water that is consumptively used is lost from the river system.

A **trans-basin diversion** is when water is moved from one watershed to another, such as diverting Western Slope water over the Continental Divide to the Front Range.

Interstate compacts

Colorado is party to nine interstate compacts, which means legally it must share its water with six other states and Mexico. Because of this, Colorado can only consume about one third of the water that originates here.

The 1922 Colorado River Compact divided river users at Lee’s Ferry, Arizona, into **Upper Basin states** (Colorado, Wyoming, Utah, and New Mexico) and **Lower Basin states** (Arizona, Nevada, and California). The Colorado River Compact and the 1944 treaty with Mexico divide up 17.5 million acre feet of Colorado River water annually; however, the actual average flow is closer to 14 million acre feet. This discrepancy creates a long term shortage which could eventually lead to water use restrictions for water users in Eagle County and throughout the Upper Basin.

BECAUSE OF INTERSTATE COMPACTS, COLORADO CAN ONLY CONSUME ONE THIRD OF THE WATER THAT ORIGINATES HERE



Colorado River Delta, Mexico
Photo by Will Stauffer-Norris

The Colorado River once reached the Gulf of California in what was the most biologically diverse section of the watershed. Since the 1960s, it has only intermittently reached the sea and presently dries up miles before (*see above*).

Eagle River Watershed Council

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Advocates for our rivers

The Eagle River Watershed Council advocates for the health and conservation of the Upper Colorado and Eagle River basins through research, education, and projects. The Council strives to protect and enhance the high-quality natural, scenic and economic values that our rivers and tributaries provide to the citizens, visitors and wildlife of the Eagle River and Colorado River watersheds located in Eagle County.



Eagle River
Watershed Council