



## 06CW99 WATER RIGHTS INCREMENTS

### WHY SHOULD I OBTAIN AN INCREMENT OF LA PLATA COUNTY'S 99 WATER RIGHTS?

Water is a limited resource. Many landowners in the Animas Valley have historically used water from the Animas River without decreed water rights or with insufficient decreed rights. These users should consider obtaining increments of the 99 Water Rights to establish their priority status for these water uses. Further, new development should consider obtaining 99 water rights to obtain a more senior right than they can obtain by applying for a new water right. Read the information below for more information on the benefits of applying for an increment of a 99 water right.

#### COLORADO'S PRIOR APPROPRIATION SYSTEM

In comparison to other parts of the country where water rights may be obtained simply by owning land that touches a water source, the right to use water in Colorado (and other western states) is based on beneficial use of water. According to the "Prior Appropriation Doctrine" that governs water use in Colorado, generally the first person to take water (also known as diverting water) from a water source and put it to beneficial use is entitled to the first right to use that water (this is commonly referred to as "first in time, first in right"). Accordingly, the second person to take water from the same source is entitled to the second right to use the water, the third person has the third right, etc. If there is not enough water from the water source (such as a river) to supply all the water users who want to use water from the same source, the most junior water users' rights are curtailed in favor of those users with senior established rights. Senior rights holders have the right to use the amount of water they have put to beneficial use before more junior water rights can be used.

#### ADJUDICATED OR DECREED WATER RIGHTS

To determine the order of priorities of water users, water courts in Colorado adjudicate water rights and issue decrees that verify a water users' priority status. The "priority" of a water right established by water courts in Colorado is based upon two things: (1) the year you file to adjudicate your water right, and (2) your appropriation date (the date you started taking water and putting it to beneficial use). Diverting water from a water source does not protect your right to use water against junior users if those junior users obtain a priority from the court when you have not already done the same. Generally, applications filed in court in one year are junior to rights applied for in previous years regardless of when you started beneficially using the water. For applications filed in the same year, priority of decreed rights is based on seniority of appropriations.

#### BENEFITS OF APPLYING FOR AN INCREMENT OF THE 99 WATER RIGHTS

1. These water rights have a priority from calendar year 2006. Thus, applying for increments of these rights will allow users to obtain a priority that is senior to individuals applying for a water right this year.
2. Without a decreed right, if there is a shortage of water in the Animas River, all non-adjudicated water users – including those individuals who rely on groundwater wells that don't have any adjudicated water rights – will be curtailed/prevented from using water. Further, users with priority dates after 2006 will be curtailed prior to water users who have obtained a decree to the 99 water rights.
3. Having an adjudicated water right with a priority from calendar year 2006 will provide historic water users with a verified priority date even if they have never previously documented their water usage (without this date, such non-adjudicated users have no verified rights to protect their water usage in times of shortage).

**FOR MORE INFORMATION ABOUT THE 99 WATER RIGHTS, AND TO SEE IF YOU ARE AN ELIGIBLE USER,** obtain a copy of La Plata County's *99 Water Rights Increments* brochure, available at: [https://www.co.laplata.co.us/services/community\\_development\\_services/planning/water\\_rights/index.php](https://www.co.laplata.co.us/services/community_development_services/planning/water_rights/index.php)