

Proposed Adjudication Group Workshop: If you're interested in a better understanding the legal aspects of adjudicating water rights, be sure to read the last paragraph of this newsletter.

Well Owner Information #3

Owning Your Water Rights through Adjudication: Pros & Cons

Under Colorado water law, individuals can't own water; only the right to use it. Like property, this right can be bought and sold. Since having an exempt well permit does *not* convey a water right, there are steps you can take to obtain the water rights under your property. This process – adjudication – establishes your legal right to use the well water according to the terms and conditions of the Water Court's decree. Adjudication, however, does not guarantee that the water will always be available.

There are pros and cons to adjudication. Reasons to consider adjudicating your exempt well include:

- Legally defines the allowed uses, amount and location of your water right.
- Possible opportunity to adjudicate all the available water under your property that is not covered in your well permit if it has not been previously adjudicated or claimed by other users.
- State law regarding water rights and permits can change at any time.
- Risk that the exempt well statute will be amended or eliminated (e.g., to meet the demand for water as population along the Front Range grows).
- Ownership of the adjudicated rights, which prohibits others from using the water rights under your property without your permission.

On the flip side, here are some reasons not to adjudicate your exempt well:

- Allowed water uses and pumping rate may be limited.
- Attracts attention to your well permit and water uses, along with the likelihood that your property and well records will be subject to inspection, and possibly special terms and conditions of use.
- A meter may be required to measure and report water usage.
- Expenditures for attorneys, engineers, filing fees, plus costs to publish the application in the monthly Water Court resume and post legal notices in local newspapers.

There's an excellent summary of water rights and decrees on pages 12-16 of [The Citizen's Guide to Colorado Water Law \(2015\)](#). Also, the [Q&A document](#) (pages 6-8) on our website covers key adjudication questions.

The Water Court has streamlined rules governing the adjudication process in recent years. Now applicants without an attorney can upload the documents to its electronic filing system and the Water Referee is required to draft the preliminary decree. Each property owner is required to file an individual application as group applications are not allowed. Court costs have increased, legal representation expenses will vary, and the number of oppositions by water districts and individuals to individual well owner applications has grown. You can find out more about filing without an attorney in the [Non-Attorney's Guide to Colorado Water Courts](#). Water rights to Denver Basin groundwater are managed by [Water Division One](#) in Greeley.

This newsletter provides a very basic understanding of adjudication with resources for further exploration. Considering whether or not to adjudicate your exempt well water and the water rights under your property requires a thorough understanding of Colorado water law and Water Court

processes and procedures. The RWADC is exploring a potential group workshop on owning your water rights to be led by a water law attorney specializing in adjudication. If you're Interested, let us know at info@rwadc.org. There would be a nominal charge to cover the attorney's time and RWADC costs.