



ADVANCING THE LEGACY

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**Ag Water NetWORK | [www.agwaternetwork.org](http://www.agwaternetwork.org)**

**WEBINAR Highlights – What to Know about Water Right Abandonment**

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### **Water Right Abandonment:**

- "Abandonment of a water right" means the termination of a water right in whole or in part as a result of the intent of the owner to discontinue permanently the use of all or part of the water available thereunder (C.R.S. § 37-92-402(11)).
- If you don't use your water right for ten years, and water is available to use, and water is needed (i.e.. precipitation doesn't fully meet crop or forage water needs), then that water right may be presumed abandoned by the division engineer (C.R.S. § 37-92-402(11)).
- The presumption of abandonment may be waived by the division engineer or the state engineer if special circumstances negate an intent to abandon (C.R.S. § 37-92-103(2)).
- Special circumstances include being enrolled in a federal land conservation program, participating in specific water conservation programs/land fallowing/water banking/loans or contracts with CWCB.
- The next decennial abandonment list will be published on **July 1, 2030**.
- The abandonment list is published in each county and the division engineers send notices to last known owners of the water rights on the list.
- The deadline to submit written Statements of Objection to Division Engineers will be July 1, 2031.
- The number of water rights listed as "abandoned" jumped substantially between 2010 and 2020.
  - About 2,700 water rights were listed on the abandonment list statewide in 2010.
  - In 2020, about 4,400 water rights were listed on the abandonment list statewide. This list was ultimately pared down to about 3,400 water rights that were referred to water courts.
  - Divisions 1, 2, 3, 5, and 6 saw the greatest increases in the number of water rights listed in 2020 when compared with 2010.



Measurement flume  
needing replacement  
Photo. Phil Brink

### **To ensure your water right does NOT get put on the DWR's decennial Abandonment list:**

- Apply the water to beneficial use
- Maintain structures and measurement devices
- Report water use to the Division Engineer annually (i.e.. keep records of annual water use and the yields of crop(s) or forage(s) grown)
- Check the Division Engineer records regularly

- If you are on a shared ditch and others do not use part or all of their water right, make sure you fully use your share(s) and keep records of your use. This protects your portion of the shared water right from abandonment.
  
- **Statute C.R.S. § 38-23-101 - 110** allows the person or persons maintaining a common ditch to perform ditch maintenance and get reimbursed through the payment of assessments by the other shareholders. The statute states:
  - “Upon the failure of any one or more of several coowners to assist in cleaning and repairing such ditch, upon written request of the owners of one-third of the carrying capacity or board of directors, the other coowners shall proceed to clean and repair the same and shall keep an accurate account of the cost and expenses incurred and upon the completion of such work shall deliver to each of such delinquent coowners or his agent, lessee, or legal representative an itemized statement of such costs and expenses.”
  
- Shareholders have a common law right to inspect the shareholder records of a ditch company based on ***Left Hand Ditch Co. v. Hill, 933 P.2d 1 (Colo. 1997)***. Shareholders may also have the right to inspect other records, such as the bylaws of a ditch company, however the court case only ruled on the access to shareholder lists.