

Water Rights Terminology

Abandonment

When a water right holder intentionally fails or neglects to use water for a period of time, despite the availability of water.

Adjudication

A judicial proceeding by which vested or existing water rights, federal reserved water rights, and water rights awarded by the state under a permit system are integrated, and priority dates for all water rights are determined for an entire watershed or ground water basin. The process is referred to as general stream adjudication.

Adjudicated Water Right

A water right that has been perfected through a judicial adjudication clarifying and permanently establishing through decree the location, amount, use, timing, and priority date for the water.

Annual Peak flow

The maximum instantaneous discharge from a stream. It is the highest annual discharge and includes both groundwater contributions and direct runoff.

Appropriated Water Right

A water right acquired through the prior appropriation doctrine, as provided by state law, as either a vested, existing, or permitted water right. Often referred to as a “state-law water right.”

Aquifer

A geological formation containing or conducting groundwater, especially one that yields a usable quantity of water.

Baseflow

The portion of the stream flow unrelated to direct storm runoff. It is the low flow of the stream that occurs through groundwater contribution to the channel.

Beneficial use

The use of water for a purpose identified by the state as a beneficial use. Each state defines in law what uses are beneficial. They typically include consumptive uses such as agriculture, domestic, industrial, mining, recreation, etc. They may also include non-consumptive uses such as fisheries, riparian, aesthetic, recreation, etc.

Federal Reservation

A dedication of federal land to a specified purpose (for example, wilderness, national park, wildlife refuge, national conservation area, national recreation area, and many others).

Federal Reserved Water Rights

A water right reserved by the federal government (either expressly or impliedly) which supports the purpose of a federal reservation of land. Those purposes are specified in the Congressional legislation or Presidential proclamation that created the reservation.

Implied Federal Reserved Water Right

When the federal government reserves public land for a specific purpose, and does not explicitly state an intent with regard to water, it implicitly reserves sufficient water to satisfy the purpose of the reserved public land.

Express Federal Reserved Water Right

When the federal government reserves public land and explicitly expresses an intent with regard to water.

First-in-time, first-in-right

A principle of the prior appropriation doctrine. Every water right is recognized with a priority date. The earliest date is the most senior right, with the later dates a junior right to those preceding them. The most senior right is entitled to water first, followed by the next most senior right, and so on. When water supply is limited, the most junior rights may not be fulfilled.

Forfeiture

The water right holder has lost the water right due to failure to beneficially use the water for a specific period of time set by the state.

Groundwater

Water that collects beneath the ground surface in the pore spaces of soil, gravel, sand, or silt, in the pore spaces within permeable rock, and in the fractures or cavities of rock.

Hybrid Doctrine

Contains elements of both the Riparian and Prior Appropriation Doctrines in states that began using the riparian system but later changed to using the prior appropriation system. Consequently, some water use dating to very early development may be managed as riparian rights, while other water use dating to later development may be managed as prior appropriation rights, even though both are within the same state. Some states may manage surface water under the prior appropriations doctrine, while ground water is managed under the riparian doctrine.

Hydrograph

A graph showing the rate of flow (discharge) over time past a specific point in a river, or other channel or conduit carrying flow.

Imported water

The unnatural contribution of water to a stream. It occurs due to diversion of water from one system into another. This water in addition to the natural baseflow is considered together as the total baseflow.

Instream Use or In-Place Use

The use of water that does not require diversion. For example, retaining water in the stream to benefit fisheries, or the capture of water in a stock pond without diversion.

Junior Water Rights

Under the prior appropriation doctrine, water rights that fulfilled after older rights (senior) have been fulfilled, but will not be fulfilled when the source is insufficient to support more senior rights

Permitted Water Right

Water rights issued as a permit under state water statutes, which specifies location, amount, use, timing, and priority date for the water.

Phreatophyte

Plants with roots constantly in touch with inundated soils or ground water. These plants tend to utilize large quantities of water.

Priority Date

The date used to determine senior and junior water rights. For a new permit applicant, it is the date the application is correctly filed. For vested water rights, the date of first beneficial use as determined by a court declaration. For federal reserved water rights, the date Congress or the President established the federal reservation.

Prior Appropriation Doctrine

A method of allocating water rights whereby the first person to appropriate a quantity of water from a water source for a beneficial use has the right to continue to use the appropriate quantity of water for that beneficial use. Subsequent persons can appropriate the remaining water for their own beneficial purposes, provided they do not interfere with the rights of prior appropriators.

Mostly applied in drier areas. Water flowing through a property is not owned as a part of property ownership. This allows water to be moved to where it is needed most, and establishes a process to allocate water where there is not enough for all landowners. The water right then becomes appurtenant to the land on which the water is used.

Riparian Doctrine

A method of allocating water rights whereby all landowners whose properties adjoin a body of water have the right to make use of the water.

Mostly applied in wetter areas. If there is not enough water to satisfy all property owners, there is an equitable sharing of burdens in proportion to the property frontage to the water body. Water rights are appurtenant to the land and cannot be sold or transferred other than with the adjoining land. Water usually cannot be transferred out of the watershed if it diminishes other riparian landowner rights.

Natural Flow Principle

A method of water allocation under the Riparian Doctrine whereby a landowner has the right to a natural water flow of undiminished quantity and unimpaired quality, and assumes a negligible withdrawal of water by any landowner.

Reasonable Use Principle

A method of water allocation under the Riparian Doctrine whereby a landowner has the right to use water in a way that does not deprive or hinder other riparian users from other legal uses of water.

Senior Water Rights

Under the prior appropriation doctrine, water rights that are fulfilled before more recent (junior) rights are fulfilled.

Storage Rights

The right to use stored water at any time after it has been appropriated and put into storage. The owner has complete control of the water upon its release from storage. Stored water may be released back into the stream for downstream use, and upon release is not subject to allocation based on priority date.

Surface Water

Water that collects on the surface of the ground in a stream, river, lake, or wetland

Vested Water Right

Often this is a water right established by the use of water before the state's water statutes were enacted. These rights are confirmed through a court process called an adjudication. The court issues a decree recognizing the vested water right, identifying the date the use began, confirming the amount claimed is needed for the beneficial uses, and has been diverted continuously since the use began.

Water Right:

A system of rights to allocate the use of water that travels or collects in streams, rivers, lakes, ponds, or underground, including the allocation of the water to storage. Water rights are property rights, but water right holders do not own the water itself, they possess the right to use it. Depending on the type of water law doctrine they may be attached to ownership of the land or they may exist as a separate property right.

Well Construction Permit

A permit, required by most states or counties, to drill a well. The permit is used to protect aquifers from poor well construction techniques and may also prevent well-to-well interference, but the permit does not convey a water right.