



## Yampa-White-Green Basin Roundtable

INTEGRATED WATER MANAGEMENT PLAN

# Colorado Water Law and the Yampa

In August 2018, water users on the Yampa River grappled with an historic event. For the first time, the Colorado Division of Water Resources (DWR) made a call on the Yampa mainstem and water use went under DWR administration. As a result, 65 percent of water users were required to either cut back their use or stop altogether. Administration began with all unadjudicated diversions, structures diverting more than the decreed water right, and all decreed structures not equipped with an adequate measuring device – regardless of the water right’s seniority. Since this call is likely not the last one, all water users should take steps to protect their water rights.

## PRIOR APPROPRIATION

### FIRST IN TIME, FIRST IN RIGHT



Prior Appropriation, or “First in Time, First in Right,” is embodied in the Colorado Constitution, which states that water is “the property

of the public, . . . dedicated to the use of the people of the state, subject to appropriation.” To establish and protect the appropriation, a court-decreed (“adjudicated”) water right is required. When flow is low and competing water demands cannot be met, earlier adjudicated rights – “senior rights” – can request DWR issue a “call” and through administration, cause holders of later adjudicated rights – “junior rights” – to curtail or stop their use.

An adjudicated water right establishes the:

- type of diversion (ditch, reservoir, well, spring),
- point of diversion,
- amount and source of water,
- beneficial use(s), and
- priority date.

A water right can be changed with approval of the Water Court. The value of a water right depends upon the amount beneficially used and actually consumed – not the decreed amount. Diversions in excess of the beneficial use may be curtailed as wasteful and do not add to a water right’s value.

## ADMINISTERING WATER RIGHTS

The Colorado Division of Water Resources (DWR) administers water rights and maintains the state’s official water use records. This information is publicly available online. DWR employees administer water usage by monitoring headgates, responding to calls for water, collecting data on diversions, issuing orders to cease or reduce diversions, and maintaining an abandonment list of water rights that are no longer exercised. Administration of water rights may include enforcement, such as requiring water users to install a measuring device.

## WHEN A CALL IS MADE

Aren’t getting your water? If you have an adjudicated water right and your diversion is in good condition with a measuring device, contact your ditch official or Water Commissioner

DWR will review the situation. If DWR issues a call, all undeclared water uses and all diversions without a headgate and/or measuring device located upstream will be shut down

Still not enough water? DWR limits the use of all upstream adjudicated water rights to the decreed amounts and uses

Still not enough? DWR uses the priority system and may shut down junior decreed water rights located upstream

## RESOURCES

- Visit [yampawhitegreen.com/iwmp](http://yampawhitegreen.com/iwmp) to learn about the Yampa Integrated Water Management Plan and find additional resources
- Contact the Division 6 Water Commissioner at [water.state.co.us/DivisionsOffices/Div6YampaandWhiteRiverBasins](http://water.state.co.us/DivisionsOffices/Div6YampaandWhiteRiverBasins)

## MAINTAINING & PROTECTING YOUR WATER RIGHTS

Water right holders are responsible for protecting their water rights, which requires verifying when and how much water is diverted, where its used, and what field conditions exist that affect the ability to use the water right. There is a statutory obligation to install and maintain proper measuring devices and provide DWR with accurate records.

Benefits of installing and maintaining a measuring device include:

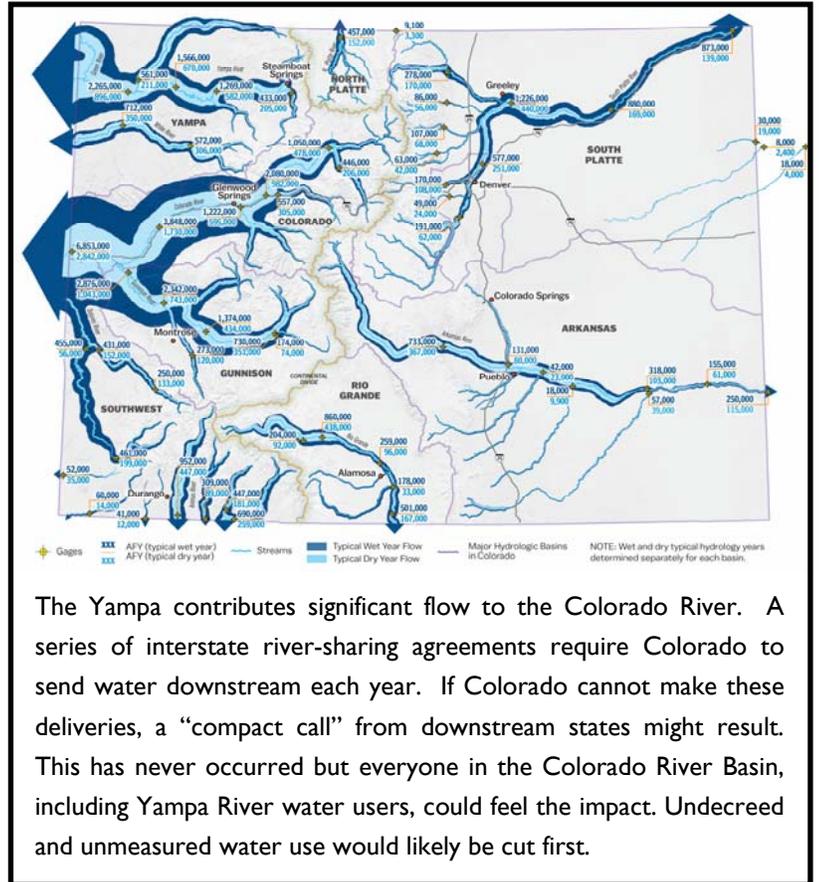
**Protecting Priority** – When DWR places the river under administration, adjudicated water rights with no measuring device will be curtailed, regardless of whether it is senior to the calling right.

**Continued Use** – If infrastructure like diversions, wells, conveyance systems or measuring devices are not maintained, DWR may shut down use of the water right and / or impose fines.

**Avoiding the Abandonment List** – Abandonment of a water right, all or a portion, requires a period of non-use and intent to abandon. Proof of use or attempted use demonstrates lack of intent to abandon your water right.

**Establishing Consumptive Use** – Consumptive use is established through evaluation of the amount actually diverted and beneficially used. The amount is critical to the water right's value, particularly when seeking a water right change or defending a legal challenge to your water right. Diverting more water than can be beneficially used – “wasting” – does not increase consumptive use.

**Participating in Approved Programs** – Documenting diversions and use preserves a water right's value during times of voluntary reduced use or when participating in an approved program, such as leasing. For example, both the Water Conservation Program and leasing your right to the CWCB for instream flow protects the water right's value for a period of time while participating in the approved programs.



The Yampa contributes significant flow to the Colorado River. A series of interstate river-sharing agreements require Colorado to send water downstream each year. If Colorado cannot make these deliveries, a “compact call” from downstream states might result. This has never occurred but everyone in the Colorado River Basin, including Yampa River water users, could feel the impact. Undecried and unmeasured water use would likely be cut first.

## CHECKING YOUR WATER USE RECORDS

It is important to periodically review DWR's database to verify its records are accurate. To check your diversion records online:

1. Go to <https://www.colorado.gov/cdss>
2. Under the “Online Tools” pull-down menu, select “Structures”
3. In “Search Fields,” click “All Divisions” and from that pull-down menu, select “Division 6”
4. In “Search Fields,” click “More Options” and from that pull-down menu, click on one of the numerous ways you can search for your diversion records, e.g. by Structure Name, Address, Permit Number, etc.
5. After selecting the type of search, select “Search” and then click on “View”
6. From here, you can access all public information on that structure, including Diversion Records, Water Rights, Measuring Points, and Irrigated Lands
7. If you do not believe DWR's records are correct, contact your Water Commissioner