

YOU CAN LEAD A HORSE TO WATER, BUT CAN YOU LET HIM DRINK?

You can lead a horse to water, but can you let him drink? Only if you own or lease the rights to that water. Water rights in the arid west, including Colorado, are unique when compared to parts of the eastern United States where water is plentiful. Water rights laws in most Rocky Mountain states are based on the "prior appropriation" system, which is often termed "first in time, first in right." This means that the first person to put the water to beneficial use, and receive the requisite permission from either the court or State Engineer's Office, has the first legal right to that water. Generally, there are two types of water rights in Colorado—surface water rights from streams and rivers, and underground water rights, which are accessed by wells.

When purchasing a ranch or horse property in Colorado, there are various things you should take into consideration with regard to water rights. Making sure you actually have associated water rights is a primary consideration. Since water is a limited commodity in Colorado, often the water on your property, especially water in rivers and creeks, has already been appropriated for someone else's use.

If you purchase a home with a well on it, determine if there are water use restrictions. Water uses are restricted by Colorado statutes, well permit conditions of approval, county regulations, and subdivision covenants. Beware of buying a dream horse property, only to later discover that the existing well was restricted to in-house uses only, and could not be used for livestock purposes.

In addition to well-use restrictions, you might encounter a property that has associated surface water rights. These

water rights will come from creeks, rivers, or reservoirs. Potential property purchasers can verify a property's associated water rights by searching the court decrees at the State Engineer's Office or by searching the online water database at www.water.state.co.us. The water will either be conveyed by direct pumping from the stream or river, or will be conveyed by ditches or canals. If the water is supplied by ditches or canals, it is probably necessary to obtain a copy of any contractual agreement with a ditch company, or stock certificates of ownership of shares of water, in order to completely understand the full nature of the rights you are purchasing. Because of the complexity involved when purchasing a property that has water rights, it is advisable to contact an attorney experienced in these matters for guidance.

If you purchase a property that does not have any water rights associated with it, but you wish to obtain either a surface water right or a well permit, you should contact the State Engineer's office in order to learn more about the process involved. Once again, because of the complexity involved in obtaining a water right, it is advisable to contact either a water attorney or water resource engineer to help with your application.

As grandpa used to say, you don't miss the water 'til the well runs dry—or 'til you find out you can't get a well at all. **H**

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