



Colorado Water Rights Protection Act Fact Sheet

The purpose of Colorado Water Rights Protection Act is to address concerns related to assertions by the United States Forest Service (USFS) and Bureau of Land Management (BLM) of ownership and control over state issued water rights through the use of restrictive terms and conditions in special use permits and the following recently issued directives: Ground Water Management Directive, Best Management Practices Directive and Ski Area Permit Directive.

- **The Goals of the Act are to:**

- (1) provide a financial deterrent to attempts by federal agencies to take or interfere with State issued water rights by defining water property rights in a way that aids parties who pursue inverse condemnation actions against the USFS or BLM due to federal restrictions on state issued water rights;

- (2) confirm federal deference to state water law and the application of existing precedent that dictates how the USFS and BLM can obtain water rights; and

- (3) prevent State enforcement or administration of restrictions placed by the USFS and BLM on the use or alienability of water rights that are contrary to Colorado water law.

- The Act explicitly establishes that water rights are property rights and describes the attributes of such a right and the basis for its value.

- The purpose of this section is to facilitate inverse condemnation actions against the USFS or BLM by defining the unique qualities of water right property interests under Colorado's prior appropriation doctrine.

- The Federal Court of Claims looks to state law to define the nature of the property right in inverse condemnation actions. As a result, state law can influence the outcome of such proceedings.

- The Act recites existing statements of law concerning the role of state law in water right adjudication and administration and confirms its application in Colorado.

- The purpose of this section is to clarify Colorado's position on the relationship between federal and state law over water matters.

- This portion of the Act confirms that USFS and BLM are subject to the jurisdiction of Colorado water courts for their water right claims in Colorado.

- This portion of the Act also prohibits the State and Division Engineers from enforcing and administering restrictions placed by the USFS and BLM on the use or alienability of water rights as a special use permit or right of way condition.

- The Act explicitly notes that it does not grant, confirm, deny or impact any authority that the federal government may have to impose bypass flow requirements.