

# Purchasing Property with a Well or Surface Water Rights: What to Ask and Where to Get Additional Information

By Colorado Division of Water Resources

Purchasing property usually involves a substantial financial investment and long-term commitment. Prior to making a purchase, the more information you can obtain about any water resources connected with the property, the better off you will be in the long run. Individual on-lot wells - If there is a residence on the property, find out if it is served by an individual on-lot well or central water supply system. If served by a well, ask questions about the well. How old is it? Is it registered with the Division of Water Resources? If it was put to use prior to May 8, 1972, it may or may not be registered (refer to the discussion on Unregistered Existing Wells under the section titled, "What Type of Well Permit Can I Get?"). Any production well used for residential and/or livestock watering purposes, that was constructed after May 8, 1972, should have a permit file on it. The Division of Water Resources maintains all well permit files. Files usually contain useful information about the well. To find the appropriate file, try to obtain the well permit number, or at a minimum, the section, township, and range location of the well and the name of the party that may have obtained the well permit. Next, to obtain copies of files, contact the Records Section of this office at 303-866-3581, Monday through Friday, between the hours of 8:00 a.m. to 5:00 p.m., or visit the Denver office. (Note: The Records Section is closed the last Friday of each month.)

**Find out what the water use restrictions are.** Water uses are restricted by Colorado state statutes, well permit conditions of approval, county regulations, and subdivision covenants. Don't fall into the trap, as many have when purchasing property, of envisioning your own little paradise, complete with home, lawns, gardens and horses, only to find out that the well use restrictions limit the use of ground water to in-house uses only. Contact Ground Water Information of the Denver office at 303-866-3587, Monday through Friday, from 9:00 a.m. to 4:00 p.m., to inquire as to well use restrictions.

**Well pumping rates** - Ask the seller or realtor what the current pumping rate of the well is. Well pumping rates are measured in gallons per minute. Prior to purchasing the property, consider having a well pump test done by a qualified party, such as a Colorado licensed pump installer or water well driller. A current listing of pump installers and drillers, arranged alphabetically by city, is available on our website at <http://www.water.state.co.us>. Low-yield wells may be able to supply a sufficient quantity of water for the intended purpose if used in conjunction with properly sized storage tanks and controlled pumping systems. There will be some water storage in the well itself. For every foot of water in a typical residential well with a four-inch diameter casing, there are 0.66 of a gallon of water in storage. You can do a quick assessment of daily water needs for in-house uses only. A rule of thumb is to allow 75 gallons per person per day. Therefore, a family of four will require approximately 300 gallons per day for in-house uses. Again, a qualified well tester could be helpful in properly assessing the well's capabilities and providing recommendations regarding a low-yield well situation.

**Well water quality, public health and safety** - Ask about the current water quality. Prior to purchasing the property, consider having the well water tested by a state-certified laboratory. The Water Quality Control Division of the Colorado Department of Public Health and Environment can be contacted at 303-692-3500, and can provide a listing of state-certified laboratories in Colorado. Information may also be

accessed from their website at <http://www.cdphe.state.co.us/wq/wqhom.asp>. You can also contact the County Health Department of the county that the well is located in. Some counties can perform a bacteriological/coliform test for water potability. The Division of Water Resources does not do any water quality testing.

**Do an on-site visual inspection of the well and property you are thinking of purchasing.** Is the well physically located on the property? Does the location of the well allow for easy access for repair and maintenance? Does the well appear to be in a sanitary condition? Is the ground surface around the well head sloped such that there would be positive surface drainage away from it? Is the well casing visibly sticking up above the ground surface, and is there a weather-tight seal on top of the casing? Does the visible well casing appear to be made of steel? How far away is the wellhead from any known contamination sources, such as septic tank and leach field disposal systems? The current Water Well Construction Rules require that a well shall not be located closer than 100 feet horizontally to the nearest source of contaminants or 50 feet from a septic tank, sewer line or other vessel containing contaminants, unless a variance to this rule is granted by the Board of Examiners of Water Well Construction and Pump Installation Contractors. State, county, municipal or local government regulations must be complied with if more stringent than the Board of Examiners' Water Well Construction Rules.

Are there any existing abandoned wells on the property that are open and not plugged? Try talking to neighboring property owners who are on well water and get their comments on water quality. Ask if they know the depths of their wells and compare it with that of the well you are assessing. Their comments and experiences can be a helpful source of information.

**Well construction** - This office currently has an inspection program in place for well construction. While inspections are not done for every well constructed, random inspections are done throughout the state to ensure compliance with the Water Well Construction Rules. Water well drilling contractors must be licensed and bonded. The contractor is licensed by the Board of Examiners of Water Well Construction and Pump Installation Contractors. One function of the Board is to promulgate rules and regulations under which contractors must operate. The latest revision to the Water Well Construction Rules became effective on January 1, 2005. A copy of these rules is available from this office for a nominal fee, or can be accessed from our website. In general, the well should be constructed with watertight steel surface casing and joints installed from a minimum of one foot above, to a minimum of nineteen feet below ground level. The space between the borehole wall and the surface casing should be grouted in accordance with the Water Well Construction Rules to prevent contaminants from entering the borehole.

If you have questions or concerns regarding well construction, you should contact staff of the Board by telephone at 303-866-3581, or in writing addressed to: Board of Examiners of Water Well Construction and Pump Installation Contractors, Colorado Division of Water Resources, 1313 Sherman Street, Room 818, Denver, CO 80203. An additional source of general information about water well construction is a pamphlet by the American Ground Water Trust in cooperation with the Colorado Water Well Contractors Association titled, "What Coloradoans Need to Know About Water Well Construction." Contact the Colorado Water Well Contractors Association to obtain a copy of this pamphlet. Their website address is: <http://www.cwwca.org>. Well ownership transfer – Each time the ownership or mailing address of a permitted well changes, a "Change in Ownership/Address" form (GWS-11) must be

submitted to this office. No fee is required. The form can be downloaded from our website at <http://www.water.state.co.us>, or may be obtained free of charge from the Denver office or any one of our seven division offices (see Contact Information, on the back of this guide).

**Central Water Supply Systems** – If purchasing property that is served by a central water supply system, find out what you can about the system and the supplier. Is the water supply from central wells or treated surface water supplies, such as a reservoir? Who is responsible for operation and maintenance of the system? Consider contacting the water supplier and asking about the reliability of the system, and the fee structure. Ask what water uses are allowed. You may be able to obtain water quality information as well. A good source of contact information for water suppliers is the Colorado Water Congress. Their telephone number and website are 303-837-0812 and <http://www.cowatercongress.org>. Additionally, there is an alphabetical listing of water districts for the Denver Metropolitan area under the Special Districts section of the city government white pages phonebook. Lastly, the Department of Local Affairs (DOLA) has online information regarding Data, Information and Publications at <http://www.dola.state.co.us/DataEtc.htm>.

**Other water rights** – In addition to an individual on-lot residential use well or central water supply system, the property you have purchased or may purchase might have water rights associated with it. The source of these water rights could be from rivers and streams, reservoirs, transmountain waters, or other wells. The water could be conveyed to the property by direct pumping from the river or stream, but more typically, conveyance is by way of a ditch or lateral, canal or possibly through a pipeline. A commonly decreed use of this water is for irrigation purposes. Issues sometimes arise over a shareholder's inability to receive water due to the actions of other shareholders further up the ditch or lateral. Often, this office will receive calls from such water users seeking resolution to these problems. While the Division of Water Resources is charged with the responsibility of administering water rights and for the distribution of surface water within the state, that distribution authority stops at the headgate of the main ditch where it diverts from the river or stream. We do not administer surface water beyond the headgate. That becomes the responsibility of the individual ditch companies or private shareholders. However, this office will assist where possible in a resolution by providing information or offering suggestions. As a potential property purchaser, you can verify a seller's claims to having water rights. Ask to see any contractual agreement with a ditch company or supplier, or stock certificates of ownership of shares of water. Sometimes there is information on the property deed regarding water rights, or on a special water rights deed. If there is a court decree involved, obtain a copy of the decree. This office maintains a database of water rights that are decreed through the water courts. Copies can be acquired for a nominal fee. This database can be searched by location (quarter/quarter and quarter section, section number, township and range) to see if any water right exists at a specified location. Additionally, an online water rights database can be accessed from our website at <http://www.water.state.co.us>.

Due to the potential complexity of water rights acquisition, when contemplating the purchase of property with water rights associated with it, it may be advisable to seek legal assistance from an attorney knowledgeable in water rights. For additional information regarding the subject of water rights, refer to other sections of this guide titled, "Water Rights in Colorado," "How Do I Obtain a Water Right?," "What is an Augmentation Plan?," and "Can I Build A Fishpond?"

Most of the state's natural surface drainage systems are over-appropriated by senior vested water rights. In simplistic terms, that means that there are more decreed water rights claims on the system than can be satisfied by the physical amount of water available. Therefore, under the priority system ("first in time, first in right"), when the most senior rights are making a call for water, the most junior rights have to curtail diverting until the calling senior.