



Holsinger Law, LLC

LANDS, WILDLIFE AND WATER LAW

WHAT TO KNOW ABOUT WATER RIGHT ABANDONMENT

C.R.S. § 37-92-103(2)

"Abandonment of a water right" means the termination of a water right in whole or in part as a result of the intent of the owner thereof to discontinue permanently the use of all or part of the water available thereunder.

C.R.S. § 37-92-402(11)

[F]ailure for a period of ten years or more to apply to a beneficial use the water available under a water right when needed . . . shall create a rebuttable presumption of abandonment of a water right with respect to the amount of such available water which has not been so used; except that such presumption may be waived by the division engineer or the state engineer if special circumstances negate an intent to abandon.

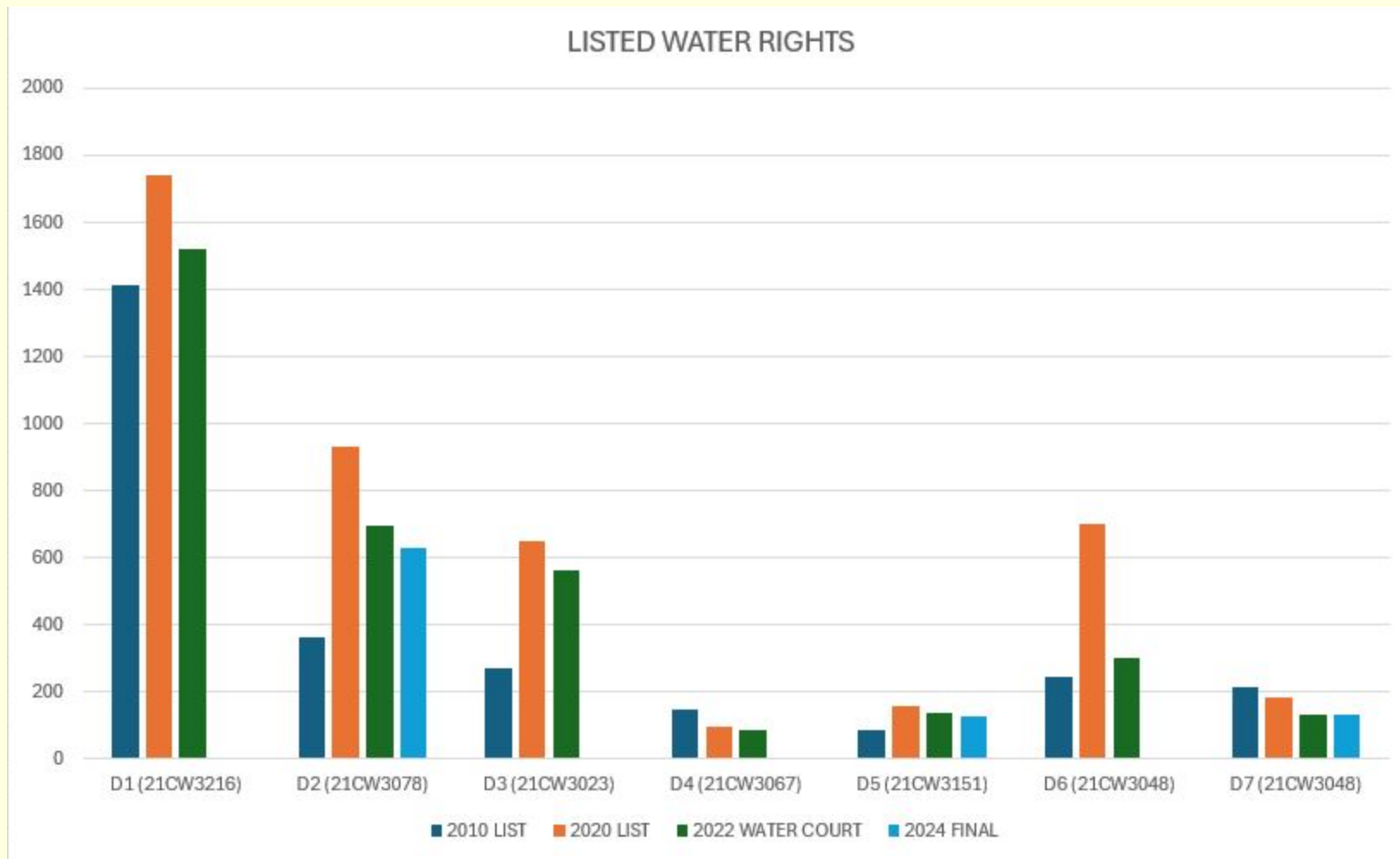
C.R.S. § 37-92-103(2) Exemptions

- Enrolled in a federal land conservation program
- Participating in specific water conservation programs/land fallowing/water banking/loans or contracts with CWCB
- **NEW in 2024** From January 1, 2020, to December 31, 2050, where an electric utility in Division 6 decreases or does not use a water right, if the utility has owned the water right since January 1, 2019

Schedule (2030 lists)

- July 1, 2030 – Publication Date of Proposed Abandonment Lists
- July 31, 2030 – Division Engineers send notices to last known owners
- July-August 2030 – Publication of lists in each County
- July 1, 2031 – Deadline to submit written Statements of Objection to Division Engineers
- December 31, 2031 – Division Engineers file revised lists with Water Court
- January 31, 2032 – Revised lists published in Water Court resume
- June 30, 2032 – Deadline to file written protests with Water Court

Rough numbers 2020



How to ensure water rights aren't listed

- Apply the water to beneficial use
- Maintain structures and measurement devices
- Report water use to the Division Engineer
- Check the Division Engineer records regularly

Justifications for nonuse

- Attempts to use
- Repair/maintenance of structures
- Water Court applications/opposition
- Removal from prior abandonment list*
- Leasing/attempts to sell
- Financial/legal obstacles*
- Use at undecreed point of diversion/for undecreed purpose*
- Other



Questions?