

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

<http://www.water.state.co.us>



WRITTEN INSTRUCTION AND ORDER 2007-02 Instruction and Order Concerning the Administration of Storage Rights by Seniors First May 31, 2007

Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

Hal D. Simpson, P.E.
State Engineer

Pursuant to section 37-92-501(1) C.R.S. (2006), the State Engineer hereby issues this Instruction and Order concerning the administration of storage water rights with differing priorities that are decreed to the same structure. When administering such storage rights, the Division Engineers shall administer under a "seniors-first" policy as explained below.

This document shall be published on the Division of Water Resources' website.

1.0 INTRODUCTION

The State Engineer may issue written instructions and orders to the Division Engineers regarding the administration of water rights. The State Engineer may also promulgate rules to establish administration practices, but such rules are not required for administration.

This instruction and order directs the Division Engineers concerning the administration of water rights in a manner that protects the prior appropriation system, and prevents speculation and hoarding.

2.0 PURPOSE

This instruction and order shall direct the Division Engineers in recognizing and administering storage rights.

3.0 AUTHORITY

This instruction and order is issued pursuant to sections 37-92-501, 37-92-103(12), 37-92-301(3), 37-92-502(2)(a), C.R.S. (2006).

This instruction and order ensures that water rights will be administered according to the prior appropriation doctrine and consistent with the priorities as set by decrees.

4.0 PROCEDURES


Under certain circumstances, there are water rights with differing priorities that are decreed to the same reservoir. As a general rule, the Division of Water Resources accounts for reservoir storage as "first in, first out" when the uses for a senior and junior storage right are the same and owned by the same water user. When such rights exist,

the Division Engineers shall administer these water rights by priority so that the senior water right is stored and used first, unless otherwise decreed, or there is advance notice and the State and Division Engineers' Offices find valid justification for doing otherwise.

If water is stored under the junior right when water is available to a senior right for a reservoir, then a paper fill for that amount will be charged against the senior storage water right to the extent that it remains unsatisfied. Once the senior right is paper filled, the junior continues to store under its own priority and any additional storage may occur only under free river conditions after the junior right is physically or paper filled.

This instruction and order must be implemented in harmony with existing rules and policies. This instruction and order is in effect immediately and shall only be revoked in writing.

Approved by:



Hal D. Simpson, State Engineer

Date: 5/31/67