

Water Law Basics  
or  
“Whiskey is for drinking,  
water is for fighting over”

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# Colorado's Prior Appropriation System

- Riparian system
- Prior Appropriation system

## Colo. Const., Article XVI, § 5:

“The water of every natural stream, not heretofore appropriated, within the state of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the state, subject to appropriation as hereinafter provided.”



# What is a water right?

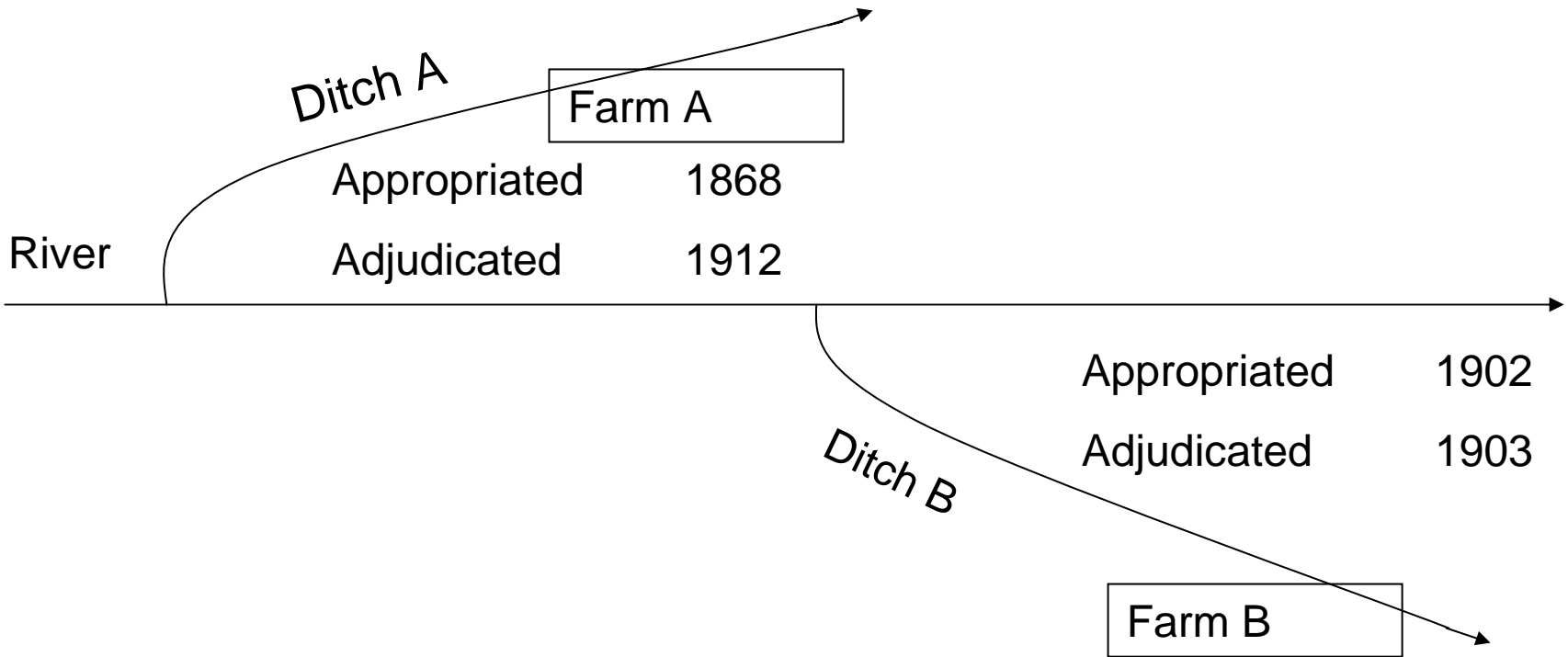
- Right to use beneficially
- A specified amount of water
- From the available supply
- In priority

# How a water right is acquired

- Appropriation
  - Intent
  - Diversion or control
  - Application to beneficial use

# How a priority is established

- Adjudication
  - Postponement doctrine
- Decree awarded to structure, not to person
- Plans for augmentation





# Absolute water rights

- Water has been applied to beneficial use prior to the time of adjudication
- Right is “perfected”
- Over time, measure of water right is based on the actual beneficial use made of the water right



# Conditional water rights

- Intent and “first step” toward appropriation, but water has *not* been applied to beneficial use
- Necessity for reasonable diligence
- Priority date relates back

# How a water right is lost

- Abandonment
- Forfeiture (failure to perfect)

# How a water right is changed

- Change in point of diversion
- Change in type of use
- Change in place of use
- Non-injury: necessity to determine historic consumptive use



# How a water right is conveyed

- Real property
  - Ditch company stock
- Severance
- Necessity for change of water rights?

# Questions?

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