

## **WR512: Water Law and Policy for Non-Lawyers**

### **Syllabus – Fall 2020**

An online course through the CSU Online Plus and online certificate program in water resources. **Glenn Patterson, Developer and Instructor**

**Course Objective:** This course is a graduate-level, online, 3-credit course for interested students from diverse backgrounds to learn the basics of water law and policy, in a context of historical development and evolving recognition of issues related to human and ecological needs for water. The geographic focus will include Colorado, the west, and the U.S.

**Course Description:** This online course seeks to provide for the interested citizen, with an undergraduate degree, an introduction to the laws and policies that govern the allocation and use of water in Colorado, the west, and the U.S. Practical information is provided that should be useful for those whose lives and businesses interact with water law, including educators, developers, governmental officials, realtors, farmers, business people, environmentalists, students, scientists, recreationists, and home owners. While the topics covered are similar to those in the undergraduate course, AREC 342, in this course they are explored in greater technical detail. For example, while AREC 342 provides a basic introduction to ground water and the laws governing its allocation, this course provides a more comprehensive look at the four legal categories of ground water in Colorado and the different approaches to the allocation of each type. In addition, this course looks at the range of ground-water law in other states, which vary from little regulation to heavy regulation of ground-water use. Other topics covered in greater detail in this course, compared with AREC 342, include in-channel diversions for environmental and recreational purposes, Federal reserved water rights, inter-basin transfers, and the role of the Legislature.

**Primary Topics to be Covered:** The basics of water law are presented in the context of their historical development, reflecting the evolving customs and desires of the people. Information is presented on laws governing allocation of water in Colorado, the west, and the U.S., and on the administration of water laws. Specific topics are listed below in the Course Overview.

**Instructor:** Glenn Patterson, Ph.D. in Watershed Science at CSU; and retired hydrologist from the U.S. Geological Survey. Contact: Use the course's built-in email system, or [scampi162@gmail.com](mailto:scampi162@gmail.com). Phone 970-586-5196 or 720-333-1132.

**Textbooks:** The textbooks for this course include:

Andrew Jones and Tom Cech, *Colorado Water Law for Non Lawyers*, University Press of Colorado, 2009 (<http://www.upcolorado.com/>),

David H. Getches, Sandi Zellmer, and Adell Amos, *Water Law in a Nutshell*, Fifth Edition, Thomson-West, 2015,

Gregory Hobbs, *Citizens Guide to Colorado Water Law*, Fourth Edition, Colorado Foundation for Water Education, 2016. ([https://www.yourwatercolorado.org/online-store/view/productdetails/virtuemart\\_product\\_id/2/virtuemart\\_category\\_id/1](https://www.yourwatercolorado.org/online-store/view/productdetails/virtuemart_product_id/2/virtuemart_category_id/1))

**Instructional Methodology:** The straightforward instructional methodology in this online course is designed to keep students engaged while affording maximum flexibility. Each module has an expository section with a mix of original content, readings from online sources as well as the textbooks, and occasional activities. Several modules feature video clips from a CSU seminar series. Seven modules have graded online discussions in which every student's postings receive response comments from the instructor.

**Mode of Delivery:** The course is delivered entirely online in an asynchronous manner, allowing the students to proceed at their own pace while participating together in discussions. There is an expectation that weekly readings and assignments will be completed on time, according to the course schedule.

**Methods of Evaluation:** The students will be evaluated based on their discussion postings (28 points), their response to an assignment on examples of results of water-law or water-policy decisions (5 points), a term paper (12 points), a midterm exam (25 points), and a final exam (30 points). Total possible points: 100. The instructor will be evaluated by the students via their course evaluations and by use of the PRISM evaluation system.

<b>Letter Grade</b>	<b>Points</b>
A+	98-100
A	94-97
A-	90-93
B+	88-89
B	84-87
B-	80-83
C+	78-79
C	70-77
D	60-69
F	Below 60

(Continued below)

## **Course Overview:**

### **Optional Review: Our Water Resources.**

Water of the World

The Hydrologic Cycle

Watersheds

Occurrence and movement of groundwater

Colorado's water resources

Water measurement and use

### **Module 1: Historical Background—Ancient Times to Colonial America -- Week 1.**

Prehistoric water management

Water management in the Old World

Water allocation in the Eastern US: The riparian doctrine

### **Module 2: Historical background—Settlement of the American West -- Week 2.**

Colorado's rivers and aquifers

Early western settlers and their water use

Development of the prior appropriation doctrine

Establishment of Colorado Territory and the right to withdraw water for irrigation

The Mining Act and control of water by the States

### **Module 3: Early statehood and the solidification of the Prior Appropriation Doctrine -- Week 3.**

Water law in the 1876 Constitution

Codification of the prior appropriation doctrine

### **Module 4: Interbasin diversions -- Week 4**

Early engineering and litigation related to interbasin transfers

Interbasin transfers today

The difference between imported and native water—use to extinction

### **Module 5: Conversion of water rights from one use to another -- Week 5**

Early litigation and legislation on conversion of water rights

Water-rights conversions today

### **Module 6: Federal reserved water rights -- Week 6**

Early litigation on Federal reserved water rights

Federal reserved rights in Colorado and other states

### **Module 7: Interstate compacts -- Week 7** Delph Carpenter and the origin of interstate water compacts

The Colorado River Compact

Colorado's other interstate compacts and decrees

Other interstate compacts

### **Module 8: Midterm exam -- Week 8**

### **Module 9: Ground water and the law -- Week 9**

The rise of ground-water use

Early legislation and litigation on ground water  
Tributary ground water  
Exceptions to the priority system: Non-tributary, Designated, and Denver Basin ground water  
Augmentation plans and substitute water supply plans  
Curtailement of tributary ground-water pumping  
Ground-water law in other states

**Module 10: Administration of water law -- Week 10**

The Legislative Branch and how citizens influence legislation  
The Courts  
The State Engineer, Division of Water Resources, and Water Divisions  
Colorado Water Conservation Board  
Water Conservancy Districts and Water Conservation Districts  
How a citizen obtains a water right  
Administration of water law in other states

**Module 11: Instream flow rights for environmental protection -- Week 11**

1973 Instream Flow and Lake Level Law  
Instream flow for the environment today  
Instream flow policy in other states

**Module 12: Instream flow rights for recreational use -- Week 12**

1992 litigation on recreational water rights  
Recreational water rights today

**Module 13: Planning for the future -- Week 13**

The Statewide Water Supply Initiative  
Basin Roundtables and water supply plans  
A look toward the future  
Water planning in other states  
The federal government and water planning

**Module 14: Water Quality and the Law -- Week 14**

Interactions between water quality and water quantity  
Common Law  
Early legislation on pollution  
The Clean Water Act  
National Environmental Policy Act

**Module 15: Paper Due -- Week 15**

**Module 16: Final Exam -- Week 16**