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37-92-402(11.5) Presumption of Abandonment.

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For the purpose of procedures under this section, failure to apply water to a decreed beneficial use for a period of at least XX-days, which days need not be consecutive, when the failure to apply water to a decreed beneficial use (a) results from the payment of consideration to the water right owner or user to cease use of the water right for its decreed purposes, and (b) the water right is not a recognized participant in a program or process included in Section 103(2)(a) or 103(2)(b) of this Article, 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,

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Deleted: (a) failure for a period of ten years or more to apply to a beneficial use the water available under a water right when needed by the person entitled to use same, or (b)

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37-92-103(2) Definition of Abandonment.

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"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, WHICH INTENT IS PRESUMED, SUBJECT TO REBUTTAL FOLLOWING A PERIOD OF NON-USE SET FORTH IN SECTIONS 402(11) AND 402(11.5) OF THIS ARTICLE. Any period of nonuse of any portion of a water right shall be tolled, and no intent to discontinue permanent use shall be found for purposes of determining an abandonment of a water right for the duration that:

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- (a) The land on which the water right has been historically applied is enrolled under a federal land conservation program; or
- (b) The nonuse of a water right by its owner is a result of participation in:
 - (I) A water conservation program approved by a state agency, a water conservation district, or a water conservancy district;
 - (II) A water conservation program established through formal written action or ordinance by a municipality or its municipal water supplier;
 - (III) An approved land following program as provided by law in order to conserve water;
 - (IV) A water banking program as provided by law;
 - (V) A loan of water to the Colorado water conservation board for instream flow use under section 37-83-105 (2); or
 - (VI) Any contract or agreement with the Colorado water conservation board that allows the board to use all or a part of a water right to preserve or improve the natural environment to a reasonable degree under section 37-92-102 (3).

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