

Division of Water Rights Amendments (HB326)

Resolving Conflict / Securing a Future

What is Behind this Bill?

The changes to statute proposed in this bill were studied and approved by the Executive Water Task Force. The bill clarifies and updates statutes related to water right and water company share ownership and conveyance. Adopting the provisions of the bill will reduce contention and will result in greater government efficiency.

What are the Issues?

The following three issues are addressed in the bill:

- **WATER RIGHT DEED ADDENDUMS WILL BE USED TO UPDATE WATER RIGHT RECORDS** – Water Right Deed Addendums when recorded and submitted to the Division of Water Rights by a county recorder as required by current statute allow ownership records of the Division of Water Rights to be timely updated so notices are delivered to the proper parties. Since the water deed addendums were adopted by the legislature on a permissive basis two years ago, the Division with the support of the water community has been working to provide incentives for both water right owners and county recorders to embrace water right deed addendums. Deed addendums reduce ownership confusion and provide a more transparent bridge between deed recording and water right ownership record keeping maintained by the state engineer. Current statute requires the submission of a Report of Water Right Conveyance (ROC) to update water right ownership. Provisions of the bill adopt in statute the practice the state engineer has followed of considering a deed addendum submitted by a county recorder to be treated as a ROC which has been filed with the Division. This eliminates additional paperwork and expense for new water right owners and reduces omissions in notifying the Division. It represents no change in Division operations but specifically authorizes the current Division practice in statute. Water Right Deed Addendums are a permissive feature of deeds so the change imposes no new burden on the public, just incentives to use the process.

Utah Department of Natural Resources

Division of Water Rights



- **RECORDED LAND CONVEYANCE DOCUMENTS ALSO CONVEY APPURTENANT WATER RIGHTS** – The bill clarifies it is the county recorder’s responsibility to accept land conveyance documents for recording and maintain a tract index of current land ownership. Water rights under Utah law are silently transferred as an appurtenance to the land unless specifically reserved in a land conveyance document or prior water deed. As a consequence, land conveyance documents often convey interests in real estate and water. Occasionally it comes to the Division’s attention that a document a county has recorded and used in maintaining their land tract index may have defects. Questions arise concerning their effectiveness in conveying appurtenant water rights. This bill clarifies it is the duty of the state engineer to accept the documents the county has relied upon in land conveyances as effective in conveying appurtenant water rights. If parties have concerns about the effectiveness of land conveyance documents they need to address them at the county recorder/document preparation level where a consistent set of recorded records can be controlled.
- **WATER COMPANY SHARES TRANSFER AS SECURITIES** - The bill clarifies shares of stock in water companies transfer only as securities, not on principals of water right ownership. Shares of stock are not water rights. They represent an ownership interest in a corporation and the shareholder enjoys certain benefits (delivery of water) associated with corporate ownership. The Division of Water Rights maintains no records on share ownership since that is a corporate function. Although current law “presumes” shares transfer as securities the case law is not consistently reinforcing those concepts. This change is intended to remove confusion that currently exists on the topic.

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