

SB17 Water and Irrigation Amendments

Resolving Conflict / Securing a Future

What is Behind this Bill?

This bill was proposed by the Executive Water Issues Task Force to update and clarify statute on uncontroversial water right issues. The language in the bill was endorsed unanimously by the task force and presented to Interim Natural Resources and Environment Committee which adopted it as a committee bill.

What are the Issues?

The bill addresses four issues:

- Allowing the state engineer to address correction of illegal stream alterations.
- Recording of water right assignments with county recorders.
- Clarifying what constitutes illegal well driller conduct.
- Updating statute on duty of state engineer authority to distribute water.

Illegal Stream Alterations

Under current statute a stream alteration made without permit from the state engineer is illegal. Many of these alterations are made without knowledge a permit was required and in some cases the person who performed the alteration later recognizes their mistake and wishes to rectify the illegal activity. In some cases the illegal alteration comes to the attention of the state engineer who recognizes some additional work may be needed for the alteration to be acceptable but under current statute there is no mechanism to encourage correction of the problem unless the alteration was made under a stream alteration permit application. The solution proposed in the bill is to broaden the state engineer's enforcement authority to allow addressing all violations of the stream alteration statute, amending the stream alteration statute (Section 73-3-29) to clarify what constitutes an emergency alteration which can be permitted after emergency actions includes more than flooding, and providing that the state engineer may issue orders to correct illegal alterations.

Recording of Water Right Assignments

Under current statute water right applications which have not been certificated may be conveyed either by deed recorded with the county recorder or by assignment filed with the state engineer. This is creating unnecessary complexity and confusion about water right ownership. The proposal contained in the bill is that assignments be recorded in the county so all water right conveyances will be noticed in a single location.



Utah Department of Natural Resources

Division of Water Rights



Illegal Water Well Driller Conduct

Water well drillers are regulated by the Division of Water. The focus of the regulation is to protect Utah's groundwater aquifers. Utah Code section 73-3-26 was added to the statutes in 1937 and forbids advertising and doing other poorly defined non-drilling activities which are difficult to regulate and have no impact on groundwater aquifers. The task force reviewed the language looking to modernize it and after study concluded non-drilling activities should not be the focus of the state engineer's regulation and proposed striking those items from Section 73-3-26 which will allow the Division will focus regulation on drilling related activities.

Duty to Distribute Water by Priority

Utah Code Section 73-5-3 was added to statutes in 1919. The purpose of the section when added was to clarify that the state engineer rather than the courts was to control distribution of water in Utah. Previous to that time there had been confusion regarding jurisdiction over water distribution where the courts had been involved. At the time Water Districts were created by court order and were included in the statute to clarify their water distribution also falls under state engineer responsibility. Water Districts are no longer created by court order and the statutes creating them are no longer in Title 73 as referenced in current statute. The change proposed eliminates "districts" from this code section, clarifying the law under current circumstances.

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