

Memorandum

RECEIVED

JUN 28 2005

WATER RIGHTS
SALT LAKE

MB

To: Jerry Olds, Utah State Engineer
From: Dale F. Pierson, Rural Water Association of Utah Legislative Chair
Subject: Extensions of Time on Water Rights After Fifty (50) Years
Date: June 21, 2005

The need for public drinking water systems to hold water rights for future public purposes is essential to the future of most Utah communities. Anticipating the growth rate of a community in regard to the potential population and the time frame within which that population will grow is a difficult task. That task becomes more difficult for smaller public systems due to their limited resources in staff, budget and technical knowledge.

Utah's Water Right Law allows a public agency to retain unused water rights for future public needs, in five (5) year extension increments, for a fifty (50) year period. Following that fifty (50) year period, unused water rights may still be retained if the public agency, "...can demonstrate the water will be needed to meet the reasonable future requirements of the public."

The Rural Water Association of Utah (RWAU) is of the understanding that the Utah Division of Water Rights is now beginning to define the concept of "reasonable future requirements" and to formulate policies and rules regarding how unused water rights may be held by public agencies following the fifty (50) year period. The Association deems that it is essential that the particular needs and abilities of small systems be considered within this policy and rule making process.

The need for future water use may extend beyond a system's current service area and boundaries. The entire area that may be possibly served in the future must be considered. Present zoning and densities within a service area may also be changed, requiring additional water development. In the case of water districts these planning and zoning decisions lie with the County and out of the District's control.

Agricultural water rights held by a public agency must be given the same consideration as Municipal and Industrial (M&I) water rights. In many cases these agricultural rights will be converted to M&I or utilized in secondary systems to offset outdoor watering with developed M&I water. These types of water development are often expensive and therefore the development option of last choice.

Many small systems will not have public facility analyses, capital facility plans, growth projections or land use plans to document their need for retaining water rights. A simple means of providing such documentation from small systems will need to be found.

Our Association realizes that formulating these policies and rules will be a difficult and somewhat controversial task. RWAU gladly offers its services to you as a resource on small system issues. We would be honored and pleased to assist you in any way that we are able.