

GWMP Discussion with Local Committee

Oct 5, 2021

Agenda

- Water Rights Presentation & Discussion
 - **Forfeiture and Nonue** - Ross Hansen
 - **Beryl/Enterprise GWMP & Cedar City Valley GWMP** - Nathan Moses
 - **Artificial Recharge Projects & Reuse Projects** - James Greer
 - **Adaptive Management** - Jim Reese
 - **Additional Remarks** - Teresa Wilhelmsen
- Parowan Valley Pumpers Association Presentation & Discussion
- Next Steps

Topics to be Covered:

- Forfeiture
- Nonuse
 - Nonuse Application



Nonuse Leads to Forfeiture

UC 73-1-4(2)(a)

...when an appropriator...abandons or ceases to beneficially use all or a portion of a water right for a period of seven years, the water right or the unused portion of that water right is subject to forfeiture.



Forfeiture

UC 73-1-4

- Key Facts:
 - Forfeiture is a judicial proceeding.
 - Administrative vs Judicial Action
 - The State Engineer does not declare water rights forfeited. (A judge does)
 - Forfeiture proceeding must be filed in the courts within **15 years** of the latest period of nonuse of at least 7 years.
 - Plus any approved nonuse application periods.

Forfeiture

UC 73-1-4

- Who files the lawsuit?:
 - An aggrieved party (i.e. an adjacent water user)
 - The State Engineer - typically in the course of a general adjudication.
- If forfeited, the lost water right reverts to the public.
 - First, satisfies other rights in order of priority
 - Second, is available to appropriate

Forfeiture Does Not Apply

UC 73-1-4(2)(e)

- Approved Nonuse Application
- Lease (written and terminable)
- Government Fallowing Program
- Insufficient Water
 - Reduced flow due to drought
- Priority Cuts

Forfeiture Does Not Apply, Cont'd

UC 73-1-4(2)(e)

- Water Storage (surface or groundwater recharge project)
- Substantially all of the water was used
- Public Water Supplier
 - Must have been acquired before May 5, 2008 or if not, had change application approved.
- Supplemental Water Rights
- Diligently Pursuing a Change Application

Forfeiture Does Not Apply, Cont'd

UC 73-1-4(2)(e)(vi)

- Forfeiture does not apply if a water user has beneficially used substantially all of the water right **within** a seven-year period.

Nonuse Applications

UC 73-1-4(2)(b)

- Approved nonuse application:
 - Protects from forfeiture during the period from filing to expiration. (7 years)
 - Does not protect a water right that is already subject to forfeiture.
 - Does not constitute beneficial use.

Nonuse Applications

UC 73-1-4(2)(b)(v)

- Can file a series of consecutive nonuse apps
- Do not bar a water right owner from:
 - (I) using the water ...as permitted under the water right; or
 - (II) claiming other forfeiture exemptions identified in (2)(e) discussed earlier



UC 73-1-4(4)

***The state engineer
shall grant a nonuse
application...if the
applicant shows a
reasonable cause for
nonuse.***

Reasonable causes for nonuse include: UC 73-1-4(4)

- Demonstrable financial hardship or economic depression;
- Physical causes that render use beyond reasonable control
- Water conservation or efficiency practices or a groundwater Recharge / recovery program;
- Operation of legal proceedings;
- Water held by any water supply entity to meet the reasonable future requirements of the public;
- Where nonuse will assist implementation of a water management plan;
- Loss of capacity due to deterioration of the water supply equipment if accompanied by plan to restore use.

Beryl/Enterprise GWMP adopted December 21, 2012

- Safe Yield 34,000 af
- Current Depletions 65,000 af
- Overage is to be managed through priority regulation schedule:

Phase	Percent Reduction	Acre Feet Reduction*	Cumulative Percent Reduction	Cumulative Acre Feet Reduction*	Time Frame	Required Reduction Date
1	5%	3,250 acft	5%	3,250 acft	20 yr	Oct. 31, 2030
	5%	3,250 acft	10%	6,500 acft		Oct. 31, 2050
2	5%	3,250 acft	15%	9,750 acft	10 yr	Oct. 31, 2060
	5%	3,250 acft	20%	13,000 acft	10 yr	Oct. 31, 2070
	5%	3,250 acft	25%	16,250 acft	10 yr	Oct. 31, 2080
	5%	3,250 acft	30%	19,500 acft	10 yr	Oct. 31, 2090
	5%	3,250 acft	35%	22,750 acft	10 yr	Oct. 31, 2100
	5%	3,250 acft	40%	26,000 acft	10 yr	Oct. 31, 2110
	5%	3,250 acft	45%	29,250 acft	10 yr	Oct. 31, 2120
	3%	1,750 acft	48%	31,000 acft	10 yr	Oct. 31, 2130

- Depletion calculated based on annual crop survey
 - Reductions in actual depletions can delay curtailment
- Accommodates voluntary arrangements
 - Certain irrigators currently exploring options to reduce depletions by utilizing alternative sprinkler options, hoping to reduce depletions w/out reducing irrigated acres.
 - Crop changes can be considered going from a more to less depletive crop.

Cedar City GWMP adopted January 11, 2021

- Safe Yield 21,000 af
- Current Depletions 28,000 af
- Potential Depletions 50,000 af (based on a duty of 4 af/acre, alfalfa crop)
- Overage is to be managed through priority regulation schedule:

Phase	Target Date	Priority Dates Regulated Through	Acre-Feet Reduction in Estimated Depletion	Cumulative Acre-Feet Reduction in Depletion	Remaining Depletion (acre-feet)
1	January 1, 2035	December 31, 1957	5,434	5,434	45,530
2	January 1, 2050	December 31, 1954	7,330	12,764	38,200
3	January 1, 2060	December 31, 1951	8,814	21,578	29,386
4	January 1, 2070	December 31, 1935	6,761	28,339	22,625
5	January 1, 2080	July 25, 1934	1,518	29,857	21,107

- Depletion calculated based on annual crop survey
 - Artificial recharge considered accretion to groundwater to offset curtailment
- Accommodates voluntary arrangements
- Import water

Artificial Recharge Projects

Upfront benefit:

“The regulated priority date for a given phase may be adjusted by the State Engineer to a later priority date based on the average annual artificial recharge or reductions in depletions that occur within the groundwater basin during the 10 years prior to the target date.”

Water Right: 75-2105

Parowan Valley Pumpers - Application to Appropriate, 20,000 ACFT, Approved July 2021

Requires: Recharge Permit, Local District, No Recovery Aspect

Reuse

- Water must be treated to a standard acceptable under the rules made by the Water Quality Board.
- Reuse water could be used for artificial recharge or to replace water use to offset pumping
- Application process with the State Engineer's Office.

Parowan Valley Wastewater Treatment:

- Sewage Lagoons
- Land Disposal
- Discharge to the Little Salt Lake
- Designed for 0.47 MG per day (530 acft per year)

Adaptive Management

Groundwater management plan objective is to reduce depletion to safe yield

- Plan can be amended at any time in the same manner it was adopted
- Continue to collect groundwater data:
 - Water level measurements
 - Well withdrawal and depletion estimates
 - New technologies
- Phased, gradual reduction in depletions allow for aquifer responses to be understood
- If safe yield reached, future reductions will not be implemented