



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director


Division of Water Rights

KENT L. JONES
State Engineer/Division Director

Internal Correspondence

Division of Water Rights

To: Water Rights Division Staff

From: Kent L. Jones, P.E. 
State Engineer
Director – Utah Division of Water Rights

Date: December 28, 2018

Subject: **POLICY FOR EXTENDING THE LIST OF THOSE ALLOWED TO HOLD MUNICIPAL WATER RIGHTS**

At the 2018 Utah Water Users Workshop the State Engineer made the following announcement as policy of the Division of Water Rights and address these following topics:

Municipal Water Use Right: A water right used by an authorized entity to meet the water use demands of the area it serves. Municipal water use rights are limited by flow rate and depletion amounts. They are required to report annually to the Water Use Program. When proof is submitted on a municipal use right, the applicant is only allowed to submit proof on amounts of water use above the amount of water previously certificated for the system. Proof would detail the amount of flow used (if needed), an acre-foot quantity of water put to use, and an accounting that the use to be certificated is within the depletion limits allowed by the water right.

Public Water Suppliers including municipalities: Systems serving water to at least 100 service connections used by year-round residents or that regularly serve at least 200 year-round residents.

Public Water Systems: Systems serving water to at least 15 service connections or serve at least 25 individuals at least 60 days out of the year.

Since 2010, the Division of Water Rights has extended the “Municipal Use Right” type of use to “Public Water Suppliers” as defined in Section 73-1-4(1)(b)UCA. Prior to that, “Municipal Use Rights” were only recognized as being authorized to be held by a municipality or a water district. Public Water Suppliers including municipalities and water districts have statutory protections under Sections 73-1-4 and 73-3-12 UCA and the ability to prepare 40-year plans to help preserve their underlying water rights to meet reasonable future needs of the public.

These protections apply to claims of forfeiture and for having extensions of time granted for holding rights to meet the reasonable future needs of the public for the



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first 50 years and for obtaining extensions beyond the 50-year time period under certain circumstances under Section 73-3-12(4)UCA.

Typically “Municipal Use Rights” have been limited to those entities defined as municipalities and “Public Water Suppliers” in Section 73-1-4 UCA. Applications filed for “Municipal Use Rights” must have a mechanism for leaving the municipal use designation in control of a municipality or one of these “Public Water Suppliers.”

The Utah Division of Drinking Water has a reference in rule to “Public Water Systems.” These systems are either publicly or privately owned and provide water for human consumption or other domestic uses and have at least 15 service connections or serve an average of at least 25 individuals daily at least 60 days out of the year.

These smaller systems don’t fit the protection criteria in Section 73-1-4 UCA but the option of having “Municipal Use Rights” as a recognized use will now be extended to these smaller “Public Water Systems” to allow these entities to submit applications to cover the multitude of uses under the umbrella of a “Municipal Use Right” within the service area of the system.

This use will be extended through the filing and approval of an appropriate application with the Division of Water Rights. If approved, the authorization will have conditions that all water use must be metered and the use must be reported to the Division of Water Rights through the Water Use Program.

Submitting proof on all “Municipal Use Rights” will include measurements of the quantity of water diverted over and above the amount of water rights already certificated and must show that the diversion and depletion limitations of the rights have not been exceeded.

It is important to note that while “Municipal Use Rights” are being extended to these smaller “Public Water Systems”, they do not meet the qualifications given under Section 73-1-4 and 73-3-12 for “Public Water Suppliers” and do not have the special protections under statute provided to “Public Water Suppliers.”