

Argyle Canyon Policy Meeting
Price, Utah
6 December 2006

Frequently Asked Questions

Q: How deep does a well need to be?

A: The well must be deep enough to meet the conditions set in paragraphs 3ai through 3aiii of the draft policy

Q: What is the depth to the aquifer?

A: This varies greatly within Argyle Canyon. In some place the water may be encountered very close to the surface. In other places, water may not be encountered at all. Given the nature of the geology underlying the canyon, a definitive answer is not possible.

Q: Are there plans for a more extensive study?

A: Given the limited nature of the resource and uses in Argyle Canyon, the State Engineer has determined that his limited study resources are best placed in areas of the state where the need is much greater and much more pressing.

Q: What is the allowable parcel size?

A: The allowable parcel size is determined by the size of any individual parcel that has been platted and approved by the county at the time the policy is adopted.

Q: What if someone put in a pipe without an approved application?

A: Any person diverting water from a natural source, without the approval of the State Engineer, is committing an illegal act and is subject to prosecution and the penalties prescribed by law.

Q: What about illegal diversions?

A: The State Engineer will deal with illegal diversions as part his enforcement power; commensurate with the resources he has available.

Q: What constitutes an illegal diversion?

A: Any person diverting water from a natural source without the approval of the State Engineer is committing an illegal act and is subject to prosecution and the penalties prescribed by law.

Q: What is the limit of the resource?

A: Given the very limited amount of hydrologic data available on Argyle Canyon, the limit of the resource (aka safe yield) is not known at this time. In an effort to collect such data, a metering requirement is proposed in paragraph 7 of the draft policy.

Q: Can there be multiple filings on a single source?

A: Yes, provided the source is capable of producing a volume of water sufficient for the uses under those filings.

Q: Can a small amount of water be used from a pipe?

A: From a legal standpoint, all uses of water from a source require a water right. However, case law allows the use of very small amounts for itinerant users such as hikers, wandering livestock, etc.

Q: What if the transfer documents are vague about my water right?

A: An approved or perfected water right is considered to be appurtenant to the land it serves unless it is specifically exempted in the transferring deed. The State Engineer recommends that all water right transfers be explicitly included, by water right number, in any transferring documents.

Q: What constitutes forfeiture?

A: Forfeiture is the failure to use the water right for five consecutive years.

Q: Are all lots allowed to file for a water right?

A: Only those lots platted and approved by the county at the time of the adoption of the policy and which meet the location criteria in paragraphs 3aiv, 3av, and 3b are eligible for the filing of an *Application to Appropriate Water*. All others must obtain water by purchasing a valid, existing water right within Argyle Canyon and filing an *Application to Segregate a Water Right* and *Application for Permanent Change of Water*.

Q: Can we file for a water source on another person's property?

A: Yes, provided the other person has consented and the appropriate easements and rights-of-way are obtained.

Q: Our family has been using this water since the late 19th century, but no filing has ever been made. Can we still use the water?

A: In cases such as this, the law allows the filing of a *Diligence Claim* with the State Engineer to record such water uses as may have originated prior 1903 from a surface source. In the case of a ground water use originating prior to 1935, an *Underground Water Claim* may be filed.

Q: Under the proposed criteria for siting wells and development of isolated springs there are buffer zone requirements. How do we know if we meet the requirements?

A: For this, it may be best to seek the professional opinion of licensed engineer, a registered land surveyor, or other who specializes in land measurements.