

UTAH DIVISION OF WATER RIGHTS
SNYDERVILLE BASIN FIELD TOUR – AUGUST 19, 2004
WATER RIGHTS ENFORCEMENT

SNYDERVILLE BASIN CONCERNS

2003 – East Canyon Creek went dry

1 cfs diversion from creek without a water right

UAPA process: 8/27/03 - staff inspection; 2/6/04 - Cease and Desist Order issued to assure no pumping during 2004; 5/1/04 to present – ongoing compliance inspections

30-50 smaller diversions from creek similar to pump on Old Ranch Road

UAPA process: 9/12/03 & 6/9/04 - staff inspection; 7/2/04 - Cease and Desist Order; 7/3/04 – ongoing compliance inspections

Not only pumps but also diversions to small (sometimes large) landscaping ponds

BEAR RIVER SITUATION

7/27 Small individual irrigators (Pumpers) have exhausted their Bear Lake storage. Their natural flow water rights are junior in priority to Bear River Canal Company.

7/27 – 8/2 River Commissioner begins instructing Pumpers in person that they must shut off.

8/2 State Engineer letter sent to approximately 90 Pumpers reiterating and reinforcing the River Commissioners instructions and informing them that if they did not shut off legal action would be commenced.

8/2 – 8/6 Continued contacts with Pumpers to explain letter - most express reservations (they will comply and watch to see how violators are handled).

8/5 – 8/6 Compliance inspections – all but one or two pumpers have complied.

8/9 One irrigator still pumping. Decision to use court process instead of UAPA process in hopes it could be completed more quickly. Work commenced to prepare Complaint for Injunctive Relief and Request for Ex Parte Temporary Restraining Order (TRO).

8/13 TRO filed with court. Judge executes order without hearing (unusual).

8/16 TRO scheduled to be served on irrigator by sheriff – however sheriff somewhat reluctant.

8/17 Court Clerk reluctant to instruct sheriff without an order of the court. Irrigator stopped pumping but plans to start again within the next few days.

8/18 Plans made to use constable to serve TRO.

(8/24) Hearing on Order to Show Cause regarding Preliminary Injunction.

The violating irrigator has had the benefit of irrigating his corn crop two weeks longer than those who complied. At this critical time of year, the estimated increased yield of his crop is approximately 50%, however, he has done this at the expense of the Bear River Canal Co. If he is found in contempt of court, the maximum fine that can be imposed is \$500 and/or 30 days in the county jail.

CHALLENGES

Division of Water Rights records

Ownership not updated when water rights sold

Water rights not always well defined in earlier adjudications and court decrees.

Numerous change applications have complicated the water right record.

Research to get the facts straight takes time.

Enforcement procedures take time - especially if the court is involved.

No penalty - no guarantee of continued compliance; this requires an on-going burden of inspection to make sure the water users stay in compliance with the State Engineer's Order.

Sometimes the court enforcement process does not function effectively