

**TRAINING MANUAL  
FOR  
PREPARING A  
“REPORT OF WATER RIGHT CONVEYANCE”  
October 2022**

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October 2022  
Modified by Title Program Specialist/Title Team**

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## **SECTION 1 INTRODUCTION**

Utah law states, in part, that:

A water right. . .shall be transferred by deed in substantially the same manner as is real estate. The deed must be recorded in the office of the recorder of the county where the point of diversion of the water is located and in the county where the water is used. A recorded deed of a water right shall, from the time of its recording in the office of the county recorder, constitute notice of its contents to all persons. [Utah Code Ann. § 73-1-10]

Real property has long been conveyed by instruments in writing recorded in the counties. Water in Utah is property of the public, and ownership to rights to use water is conveyed similar to the method of conveying real estate. However, title professionals and water users involved in conveyance transactions need to be aware of the differences between conveying real estate and water rights.

Water rights are created and administered under the supervision and apportionment of the State Engineer, a state government officer with statewide jurisdiction (Utah Code Ann. § 73-2-1). The State Engineer maintains public records. To carry out administrative functions the State Engineer must interact with water right owners. As a consequence, the State Engineer maintains as part of the record - water right ownership.

To maintain an authoritative ownership index and to match the State Engineer's records with the county records office, the Utah Legislature established statutory procedures which rely on water right owners to update State Engineer ownership records. That process, dependent on submission of Reports of Water Right Conveyance (ROC) by professionals and/or water right owners is the subject of this manual.

This manual will provide detailed information intended to guide the training (or self-instruction) of persons desiring to become proficient in the preparation of Reports of Water Right Conveyance.

## **SECTION 2**

### **THE BASICS OF WATER RIGHTS**

#### **2.1 INTRODUCTION**

Utah statutes declare all waters in the state to be the property of the public subject to rights to the use thereof. Legislation created the State Engineer position as an officer in state government to be the water rights authority, to generally administer the measurement, appropriation, apportionment, and distribution of the waters of the state. The State Engineer is the director of the Division of Water Rights (Division) and employs staff to carry out the duties of the office. Records of water rights are located in the Division's Salt Lake City office and are open to the public to view upon request. Water right records can also be accessed over the internet at [waterrights.utah.gov](http://waterrights.utah.gov).

#### **2.2 WATER RIGHT DEFINITIONS**

**2.2.1 APPURTENANCE** - A right or improvement to a property that passes with the property upon the transfer of the property. As applied to water rights, it is as described in Utah Code Ann. § 73-1-11 (See Appendix A).

**2.2.2 APPROPRIATION** - an application seeking to appropriate water pursuant to Utah Code Ann. § 73-3-2 (See Appendix A).

**2.2.3 BENEFICIAL USE** - the basis, the measure and the limit of a water right. It is the specific use(s) authorized under a water right expressed in terms of the purpose(s) to which the water may be applied and the quantity of that purpose. For example, in the case of irrigation, the beneficial use is expressed as the number of acres that may be irrigated (e.g. 11.22 acres).

**2.2.4 CHAIN OF TITLE** - A series of deeds or other properly filed and recorded documents that demonstrate the transfer of a water right, a portion of a water right, or land with appurtenant water rights. Deeds establishing a chain of title begin with the owner listed on records of the Division of Water Rights as grantor of the first deed through a chronological succession of transfer documents where the right is ultimately conveyed to the grantee listed as new owner on the Report of Water Right Conveyance.

**2.2.5 CHANGE APPLICATION** - an application authorized to be made under Utah Code Ann. § 73-3-3 (See Appendix A) to change the point of diversion, place of use, nature of use, period of use or storage of a water right.

**2.2.6 CONFLICTED HOLDER** - a person or entity claiming ownership of all or a portion of a water right that conflicts with the ownership claim of another person or entity claiming ownership of the same right or portion in question. Conflicted holders may also include title holders whose title is not directly disputed, but is the part-owner of a right where a title question exists, and to resolve the question, the State Engineer deems the holder should be involved.

2.2.7 DIVERSION LIMIT - the total volume of water in acre-feet or the flow rate in cubic feet per second (cfs) which may be diverted as allowed by the water right to supply the needs of the beneficial uses authorized by the water right.

2.2.8 DIVISION - the Utah Division of Water Rights within the Department of Natural Resources.

2.2.9 EXCHANGE APPLICATION - as authorized under Utah Code Ann. § 73-3-20 (See Appendix A), an application to allow water from one source to be exchanged for water from another source. Exchanges are conditional rights that do not modify the underlying rights (right on which the exchange is based). The water may be exchanged to the extent it is available and not used under the underlying right. For the purpose of updating title, an approved Exchange Application is appurtenant to land and transfers as other water right interests.

2.2.10 JOINT TENANCY - Joint tenancy with rights of survivorship is when two or more people hold title to real estate jointly, with equal rights to enjoy the property while still alive. In the event of death of either party, the ownership rights pass on to the survivors. [Utah Code Ann. § 57-1-5] (See Appendix A).

2.2.11 PERFECTED WATER RIGHT(S) – a fully developed water right that is evidenced by a decree, a certificate of appropriation, a proposed determination or court order issued in a general adjudication. For further definition on title updates of a "perfected water right" see Section 3 for clarification.

2.2.12 PLACE OF USE - the specific acreage where water under a water right may be placed to beneficial use as described on the records of the State Engineer or a decree.

2.2.13 PROFESSIONAL - a person authorized to submit a Report of Water Right Conveyance as specified in Utah Code Ann. § 73-1-10 (See Appendix A). A professional must be licensed in Utah as an attorney, a professional engineer, a title insurance producer, or a professional land surveyor.

2.2.14 REAL PROPERTY – A water right is considered real property when it is appurtenant to the land and it is by right used with the land for its' benefit.

2.2.15 REPORT OF WATER RIGHT CONVEYANCE (ROC) - a report of water right conveyance to the State Engineer as required by Utah Code Ann. § 73-1-10 (See Appendix A).

2.2.16 SHARE STATEMENT - A water right file created on State Engineer records for purposes of administration in instances where the owner of shares of stock in a water company is authorized under statute to file an application (nonuse or change application) based on said stock ownership. Water rights based on share statements are a conditional right. A water right change application based on shares of stock is appurtenant to the land where it is used and transfers as other interests in water rights. Shares of Stock do not transfer under rules of other rights to use water but transfer as securities as set forth in Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities.

2.2.17 SOLE SUPPLY - means the amount of beneficial use allowed under a particular water right when used alone and separate from all supplemental rights. If a water right is assigned to more than one water use group, the sole supply of the water right is the sum of its beneficial use amounts.

2.2.18 SUPPLEMENTAL GROUP - Also referred to as a water use group, means one or more water rights listed together and assigned a unique number in the records of the State Engineer as being applied to a common beneficial use. The unique number referred to is shown on the Division's computer database as "Water Use Group No."

2.2.19 TENANTS IN COMMON - is when two or more people hold title jointly, with equal rights to enjoy the property during their lifetime. However, it's different from "joint tenancy" being that tenants in common hold title "individually" for their respective "part" of the property [Utah Code Ann. § 57-1-5] (See Appendix A).

2.2.20 UNPERFECTED WATER RIGHT(S) – An application to appropriate, change application, exchange, or other rights that have not been decreed, certificated, or court order but which has been "*approved*" by the State Engineer or an "*unapproved*" application which has yet to be approved by the State Engineer. See Perfected Water Right(s) above. An unperfected right is any right that is not perfected.

2.2.21 WATER RIGHT NUMBER - a unique file number assigned by the Division beginning with a two digit prefix associated with a specific geographic area designated by the Division, followed by a dash followed by another number to establish a unique and specific number for the administrative functions of the Division. (e.g. 43-3231)

2.2.22 WATER RIGHTS ADDENDUM - an addendum to a deed clarifying the water rights conveyed by the deed pursuant to Utah Code Ann., Subsections 73-1-10(1)(d)(i) and 73-1-11(6) (See Appendix A). Addendums are recorded with the deed it accompanies at the County Recorder's Office and are forwarded by the County Recorder to the State Engineer pursuant to Utah Code Ann. § 57-3-109 (See Appendix A).

## 2.3 WATER RIGHT ATTRIBUTES

### 2.3.1 BENEFICIAL USE

All water rights are based upon and limited by the beneficial use(s) defined therein and physically utilized by their holder(s). Uses are quantified by the amounts and time periods associated with each use and associated diversion and depletion rates. For example, an irrigation right could be defined as limited to the irrigation of four acres during the period of April 1 to October 31 with a diversion limit of four acre-feet of water per acre, of which 55 percent is consumed or depleted (Depletion is the loss to the hydrologic system through plant uptake, evaporation, etc.) and 45 percent is returned to the hydrologic system via seepage, runoff, etc. All of the use may be covered under one right (A sole supply), or in some cases, several rights together may supplement each other and provide for the beneficial use (supplemental rights). For example, stockwatering from January 1 to December 31 for 300 cattle at a diversion rate of 0.028 acre-foot per animal (all of the water is consumed) may require the contribution of several

springs, streams and wells as the herd moves for forage. Each supplemental source may be authorized under a separate right, but all are needed together to meet the required supply.

### 2.3.2 DIVERSION QUANTITIES

Water rights authorize specific maximum quantities of water that can be diverted from sources at prescribed times to achieve the beneficial use. These quantities are defined by flow in cubic feet per second and/or by annual volume in acre-feet. No matter the described flow rates or annual volumes, no more water may be diverted than can be beneficially used for the authorized purposes under the water rights.

### 2.3.3 SOURCES AND PLACES OF USE

Water rights authorize diversion from specific sources (i.e., wells, springs, streams, lakes, drains, tunnels, etc.) at defined “Points of Diversion” and for use in a defined location or “Place of Use.” Location of the “Place of Use” is especially important in determining the appurtenance of water rights to land when evaluating ownership documents (See Section 6).

### 2.3.4 PRIORITY

Utah water law is based on a fundamental principle that those first making beneficial use of a source of water are entitled to continued use in preference to later users (Doctrine of Prior Appropriation). Each water right has a priority date based upon the initial date of use or date of initial filing with the State Engineer.

### 2.3.5 OWNERSHIP

The record of each water right will reflect the entity or entities authorized to make diversion and use of the water and responsible to meet all of the conditions required under the right. This information reflects documents that have been submitted to the State Engineer to be made part of the public water right record and may or may not represent the most recent or complete information.

## 2.4 TYPES OF WATER RIGHTS

There are basically two types of rights: Those established before the state legislature adopted “appropriation” statutes, and those initiated after the adoption of the governing legal code. Statutes requiring the formal appropriation of surface waters were adopted in 1903; the requirement was extended to include underground water in 1935. Rights claimed by beneficial use prior to the applicable statute are referred to as a “diligence” or a “pre-statutory” right. Those rights established by the formal appropriation process are called “appropriated rights.”

### 2.4.1 DILIGENCE RIGHTS

The earliest priority water rights are those founded upon the water uses of original settlers and their successors. The water rights are predicated upon consistent and continuous use. Some of these rights have been made a matter of record through court decrees. Others have been recorded with the State Engineer through the filing of claims as part of court-ordered adjudications and as directed by legislation.

Claims to water rights of surface water sources established prior to 1903 are called “diligence claims.” Claims to underground water sources established prior to 1935 are called “underground water claims.” The priority of these rights reflect the date the claimant purports that the water was first used. Generally, diligence rights are considered to be “real property” and are conveyed in the same manner as real property. Until confirmed by a court decree (See Section 2.9 - Litigation and Adjudication of Water Rights), diligence claims are presumed to be valid but must stand on their own merits if challenged in a court action.

#### 2.4.2 APPROPRIATED RIGHTS

Proposals to appropriate surface water after 1903 and underground water after 1935 from any available unappropriated water supply must be initiated through the filing of an Application to Appropriate Water with the State Engineer. The priority date is the date that the filing is made, although priority may be lost for lack of diligence in developing under an approved application. Applications to appropriate can be made for permanent projects (in perpetuity), for fixed-time developments (for periods generally ranging from five to twenty years duration), and for temporary ventures (one year). Applications to appropriate that are approved are subject to specific periods in which to develop the proposed projects and place the water to beneficial use. During the period that an application is being developed the water right is in an “approved” status and the rights may be conveyed by assignment or by deed. Upon proof of development of the approved uses (Proof of Beneficial Use), certificates are issued and the rights are perfected and must be conveyed by deed. Without completion of development within the designated time frames and/or submission of proof, applications can permanently lapse.

Applications to appropriate that do not meet the criteria of Utah statutes are rejected. Applications to appropriate that propose projects in areas that need investigation or further study may be held without approval pending the availability of such information as is needed.

#### 2.5 NO PROOF REQUIRED

An application to appropriate that was submitted for small domestic use during the Korean War (1950 – 1953) and approved by the State Engineer to be used on a specific parcel, did not require proof to be submitted. These small domestic applications were considered to be perfected as of the date of approval and shown on the records of the State Engineer.

#### 2.6 APPLICATIONS TO “CHANGE” WATER RIGHTS

Existing rights can be amended to accommodate new projects. Such amendments are initiated through the filing of a “change application” with the State Engineer. Change applications can be made for permanent projects (in perpetuity) or for temporary activities (one year) and are subject to the same review, processing, and criteria as described for applications to appropriate, as noted above. In most cases, change applications are perfected by the filing of proof and the issuance of a certificate by the State Engineer. Change applications cannot be approved if they would result in an enlargement of the beneficial uses, quantities of water utilized under the original water rights or the impairment of other water rights.

## 2.7 APPLICATIONS TO “EXCHANGE” WATER RIGHTS

Applications to exchange appropriated water from one source location to another can be made to facilitate distribution under the affected water right. Exchanges are conditional rights that do not modify the underlying rights (right on which the exchange is based). The water may be exchanged to the extent it is available and not used under the underlying right. For the purpose of updating title, an approved Exchange Application that did not require proof of beneficial use is considered a perfected water right.

## 2.8 APPLICATIONS FOR NON-USE OF WATER

Once a right is perfected for certain uses, the water right holder or authorized party is required to exercise the water right diligently. If a right is going to be idle for a period of seven years or more, it may be necessary to protect the water right by filing a nonuse application with the State Engineer. Otherwise, statute declares that the right is subject to forfeiture in accordance with Utah Code Ann. § 73-1-4. Inactive rights not protected by non-use applications may still remain valid under certain conditions, such as in cases of extended drought when a supply of water is not available for certain rights.

## 2.9 LITIGATION AND ADJUDICATION OF WATER RIGHTS

Water rights can be the subject of litigation between individual water users, resulting in subsequent court decrees, which could alter the defined uses and limitations of some rights. Such actions can address both small and large water disputes between users. If the State Engineer is made a party to the action or if the water users submit court documents to the State Engineer in support of their claims, copies of the documents are made a part of the public record.

Sometimes the State Engineer is directed by court action to make a determination of all the water rights in a given area. This direction is called an “adjudication order” and the proceedings involve the mapping of points of diversion, places of use, and beneficial uses of all water rights within that area. Through the preparation and receipt for the filing of Statement of Water User’s Claim (“WUC”) from water users within the area covering all rights of record, including diligence and decreed rights that had not previously been made a part of the State Engineer’s records. Additionally, unadjudicated water user’s claims that were filed with the State Engineer (or Court) asserting a pre-statutory use where no other record of a water right exists (similar to Diligence Claims), known as an adjudication claim, will formally be evaluated during an adjudication and may be included in a proposed determination.

When an area is undergoing an active adjudication, the State Engineer may petition the district court for an election order. An election order allows water right owners, after the development work has been completed, to file a Statement of Water User’s Claim in lieu of Proof of Appropriation or Proof of Change in areas where general determination proceedings are pending.

All identified claims to water rights are then compiled into “proposed determination” books, which are distributed for review to all water claimants and are filed with the court. All interested parties are allowed a period of time to file objections to the proposed determination. Once the

objections have been resolved (generally by stipulation or by a court order) the court issues a decree confirming the water rights.

Adjudication proceedings are ongoing in several parts of the state, and Statement of Water User's Claims may be on file as part of the water right records. The status of such claims are reviewed on an individual basis. Depending on the status of the adjudication proceedings before the court, such claims may or may not be a reliable source of information regarding the water right or its ownership.

## **SECTION 3**

### **METHODS OF WATER RIGHT CONVEYANCE**

#### **3.1 INTRODUCTION**

As with any property, water rights can change ownership. The office of record for ownership of perfected water rights is the County Recorder's office for the county or counties where the water is diverted and/or used. If the water is diverted in one county and used in another, documents are to be recorded in both. Failure to record a deed of a water right shall be void as against any other water right owner, whose deed is first recorded [Utah Code Ann. § 73-1-12] (See Appendix A). In Utah, water rights can be owned and transferred separately from the land upon which they are used. Thus, various types of conveyance situations can occur.

#### **3.2 WATER RIGHTS CONVEYED BY "WATER DEEDS"**

"Water Deeds" are deeds which convey only water rights. . They may contain conveyance language consistent with standard warranty deeds, special warranty deeds, or quit claim deeds and may convey a right(s) in whole or in part. Such deeds have exhibited a wide range of descriptive information. The more exact the information defining the intent of the conveyance, the less likely misinterpretations and conflicts will occur.

Execution and recording of a water right deed may separate the ownership of the water right from the land or ownership of the historical authorized place of use.

#### **3.3 WATER RIGHTS CONVEYED IN CONJUNCTION WITH LAND**

A warranty deed or quit claim deed conveying land may or may not include language that specifically describes the water right(s) intended to be transferred with the land. Such rights can be conveyed in whole or in part. However, if a land deed makes no mention of water rights, water rights used on the land can pass as appurtenances (See Section 6). Land conveyances executed before May 4, 1998, that are silent about water rights could convey that portion of "perfected" water rights described as beneficially used on the deeded land. Land conveyances executed on May 4, 1998, or later, and that are silent as to water rights, can convey not only perfected rights but also approved and unperfected applications where the water right projects are still being developed. "Silent" deeds only convey appurtenant water rights that are in the same name as the property owner who is transferring the land. Only "perfected" water rights can have title transfer by appurtenance. A water right that does not have a "proof due date" is considered a "perfected" water right, for title purposes. For a definition of a perfected water right(s) see Section 2.2.11.

#### **3.4 LAND CONVEYED WITHOUT ASSOCIATED WATER RIGHTS**

Land conveyance documents may expressly reserve the associated water rights to the grantor(s)/seller(s). In such events, the land where the water is used may transfer to a new name, but the water right ownership will remain unchanged. Also, land deeds may be executed for property where a water right was historically used, but where a change application has been filed

to move the right to another location. For conveyances executed on May 4, 1998, or later, if a change application has been approved prior to the execution of the deed to the historic place of use, the once appurtenant water right has been severed from its historic place of use for title purposes. The right would not pass silently as an appurtenance to the historic place of use.

### 3.5 CONVEYANCES BY “TRUSTEE’S DEED (DEED OF TRUST)”

Frequently, water rights – either by direct recital or as appurtenant to land – are used as collateral for securing loans from individuals or from commercial lending institutions. Such encumbrances are generally documented by the execution and recording of a “Deed of Trust” or similarly named document. A Deed of Trust, by itself, does not convey title. If a default occurs and a foreclosure is exercised, a “Trustee’s Deed” will typically be executed and recorded to consummate the transfer of title. An Application to Appropriate or the hereafter of an approved Change Application that has permanently lapsed may or may not pass by appurtenance on a “Trustee’s Deed.” In the case when the water right does not pass by appurtenance the water right number will have to be specifically recited on the “Trustee’s Deed.” A Report of Water Right Conveyance, in such circumstances, should include both a copy of the original document establishing the encumbrance (Deed of Trust) and the resulting conveyance document (Trustee’s Deed).

On rare occasions, ownership of a water right may be acquired by virtue of a Sheriff’s Deed/Tax Deed. Typically, this would occur when land is seized by a county for failure to pay property taxes and then conveyed in a tax sale. As with a conveyance by Trustee’s Deed, the Report of Water Right Conveyance should include all documentation necessary to establish the basis for encumbrance and the final conveyance.

In both instances described above, if a claim is made that a water right is being conveyed as appurtenant to land, the preparer of the Report of Water Right Conveyance should provide sufficient documentation, maps and explanatory narrative to clearly set forth the reasoning, principles and statutes employed in making the determination of title reported.

### 3.6 CORRECTIVE DEED

A deed is a legal document that transfers real estate from one owner to the next and a mistake can mean the difference between legally owning a piece of property or not owning it at all. Once a deed has been recorded it is part of the public record and cannot be changed. However, an incorrect deed that has been recorded in the public records can be corrected. It is possible to amend that record by adding a newly executed deed called a “Corrective Deed.” If a deed conveying a water right is incorrect, the Division would require on the Corrective Deed, signatures of both the grantor and grantee and an explanation describing the title of the prior document, information about where it was recorded and the exact change.

If a deed contains minor typographical errors a “Scrivener’s Affidavit” may be used, filed and recorded with the appropriate County Recorders.

### 3.7 WATER DEED ADDENDUMS AND LAND DEED ADDENDUMS

A Water Rights Addendum is a written document that is an addendum to an applicable deed; is in a form approved by the Legislature in a joint resolution; and identifies and describes the water rights transferred under an applicable deed; or states that no water rights are transferred under an applicable deed. The purpose of the Addendum is to create a dialog between the buyer and seller of the property and if any applicable water rights are included. There are two types of Addendums: (1) Water Rights Addendum to Land Deeds and (2) Water Rights Addendum to Water Deeds. Effective as of July 1, 2011, an Addendum attached to an applicable deed can act as a Report of Water Right Conveyance when submitted to the State Engineer by the County Recorder; the grantor listed on the deed and addendum is the owner as listed on water right records of the Division; the Water Rights Addendum document is properly completed as instructed on the form; and the addendum is signed by all grantors and grantees on the deed, with the mailing address of the grantee.

### 3.8 WATER APPLICATION ASSIGNMENTS

Assignment forms are provided by the State Engineer and are located on the Divisions website. If an Assignment is used it must be on the approved form provided by the State Engineer and must be for 100% of the water right. In the case of an approved Exchange Application that no proof is required, an assignment cannot be used. Unapproved applications or approved applications that have yet to be “perfected” (See Sections 2 and 3.3) can be “assigned.” As of May 13, 2014, Assignments are to be recorded in the appropriate County Recorder’s office. As of July 1, 2017, a copy of the Assignment, when recorded, may be forwarded by the County Recorder to the Division of Water Rights. The Division will treat the submission as a Report of Water Right Conveyance to update water right ownership records. . 3.9

### COURT DECREES AND AWARDS

Some water right ownership issues are so conflicting, vague, or undocumented that litigation is required. Court decrees may be issued to define quantities, direct distribution, or quiet title water rights. If the State Engineer is provided copies of the decrees, they will be made part of the Division’s records for the water rights involved. Such decrees can also be utilized in updating title. However, they should be interpreted within the extent of the underlying legal actions. They may represent only the interests of the litigating parties; entities that were not involved in the legal proceedings may also have ownership rights. Generally, in the cases of divorce, bankruptcy or probate rulings (decree of distribution/letter of testamentary/determination of heirs), orders are given for the appropriate parties or representatives to issue deeds to convey title. Quiet title decisions or stipulated agreements may define the ownership interests within the decrees themselves.

### 3.10 SHARES OF STOCK AND CONTRACTS

Some water rights are held in the names of corporations, mutual water companies or other formal associations. Beneficial use of the water is made by the parties who hold shares or a contract issued by the entity owning the underlying water right. Shares of stock are transferred according

to the procedures set forth for securities in Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities. Contracts are usually transferred to the new owner by issuing a new contract in their name. Generally, neither the State Engineer's records nor the County Recorder's records will include current information regarding the ownership of shares or contracts. Instead they are limited to records of ownership of the underlying water right(s) in the names of the corporations, mutual water companies or other formal associations. Ownership of a share of stock or holding a contract in a water company is not the same as ownership of a water right. It is simply the right to the use of water under water rights belonging to the entity that issued the share of stock or contract.

### 3.11 DOCUMENTS THAT DO NOT CONVEY TITLE

Not all documents provided by the public or recorded and purported to convey title to a water right can be formally recognized by the Division. Typical documents will include such items as a "Bill of Sale," a "Sales Contract," "Well Agreement," "Purchase Agreement", or an "Escrow Agreement". These documents may be helpful in interpreting the intent of formal conveyance documents, but they do not suffice as evidence of a conveyance of title. They certainly have validity in the conduct of business transactions and may bind parties to certain contractual obligations outside of the Division but do not constitute as valid documents for transfer of title.

### 3.12 OTHER METHODS TO UPDATE OWNERSHIP

There are times when a name of an entity or individual can change and a deed is not necessary to update ownership on the Division's records. The following is a list of those situations and the procedures to update:

1. **Corporations:** The document required to support the change of the name of a corporation is a Certificate of Name Change, or other similar document, stamped by the Utah Department of Commerce, or by the appropriate agency in the State in which the corporation is incorporated.
2. **Marriage:** A copy of a marriage license evidences the change of name of an individual specified in the license.
3. **Divorce:** A copy of a decree of a court of competent jurisdiction evidences the change of name of an individual as declared in the decree.
4. **Joint tenancy:** A copy of a death certificate evidences the dissolution of joint tenancy in favor of the surviving party (removal of a joint tenant as an owner on Division records).

In these situations, the required documentation is to be submitted with a Report of Water Right Conveyance.

## **SECTION 4**

### **RESEARCHING THE DIVISION OF WATER RIGHTS' RECORDS**

#### **4.1 INTRODUCTION**

The official water rights records are housed at the Division's Salt Lake Office. in individual files labeled by the water right number. The files contain all of the documents relating to the initiation, processing, investigations, modifications, etc., of each water right. All information on those files is public record and available for inspection Monday through Friday from 8:00 AM to 5:00 PM.. Additionally, the documents are electronically scanned and are available for viewing and printout through the Division's website ([www.waterrights.utah.gov](http://www.waterrights.utah.gov)). The Division maintains an online database, which contains basic information about each water right along with search programs to help find specific water rights and other relevant water right related information.

Disclaimer: The Division's database is not always accurate. To have complete and accurate information it is advised to view water right files either through the scanned documents found on the internet or paper files housed in the office of the State Engineer.

#### **4.2 COMPUTER SEARCHES OF DIVISION OF WATER RIGHTS' RECORDS**

Depending on what information is available, the Division of Water Rights website includes several search programs which can be helpful in identifying water rights. On the website you will have options to search by water right number, owner, source name, point of diversion location , or by place of use location.

##### **4.2.1 SEARCHING BY WATER RIGHT NUMBER**

##### **4.2.2 SEARCHING BY OWNERS' NAME OR BY NAME OF SOURCE OF WATER**

The search programs can search the ownership fields in the database to locate water rights in a specific owner's name. However, the search program can only search for the current owner of the water right as listed on the water rights database and not previous owners of the water right. This may or may not coincide with the current owner of the water right, if the appropriate title documents have not been submitted to the Division. Title information for water rights is based solely on documents filed by the public with the Division and no guarantee can be given regarding accuracy. No direct communication is made between the state office for water right records and the various County Recorders' offices for property records.

These programs can also search the source of water fields in the database to locate rights from a specific named source (e.g., Whispering Spring, Bear River, etc..). Generally this program is most useful if a source has a unique name and there are not many diversion rights therefrom. Searching for rights from the Sevier River would result in an unwieldy number. Searching for rights from Willow Creek would result in listing the numerous Willow Creeks in the state.

#### 4.2.3 SEARCHING BY LOCATION OF POINT OF DIVERSION OR PLACE OF USE

When using either the point of diversion or place of use programs, a search can be made by section, township and range. In the point of diversion program, searches can be by full section, quarter-section, or by defining a radius around a defined point within a section, township and range. This search method requires that a legal description of the property is available by public land survey system due to the statewide nature of the database. The point of diversion program is most helpful if the diversion point of the right falls on the property being researched. The program can be tailored to search for rights with certain types of source and/or specific uses.

The place of use program can search the database for locations of beneficial use of water that may fall on the property being researched. This program is helpful if the source of supply of water is not located on the property where the water is used (e.g., the well is sited on the neighbor's property, or the spring is on U. S. Forest Service land and the water is piped to the property being researched). Place of use descriptions in the database are by 40-acre tracts (e.g., SW1/4SE1/4 Section 1, T25S, R5W, SLB&M), so several rights may overlap, and results will have to be further researched.

#### 4.2.4 SEARCHING BY MAP SEARCH

This is a good search option if you have the parcel number or street address of the property in question. Select "Map Search" from the Division's homepage or by using the following link: <https://maps.waterrights.utah.gov/EsriMap/map.asp>. You can choose to search by either "Address" or "County Parcel." These search options will show you the water right point of diversion in the area you have selected on the map.

When using these programs caution should be exercised when updating the ownership of a water right by appurtenance because the point of diversion may not necessarily be the authorized place of use identified on the files of the State Engineer.

#### 4.3 PRIOR TITLE DOCUMENTS

Title documents which have been previously reviewed and processed by the State Engineer's staff will generally be found on the files to which they refer. These documents are available for viewing as scanned documents on the Divisions website under the water right number that they pertain to. Most such documents will be summarized on forms entitled "Title Abstract" or "Title Summary" also contained in the files. These forms were used by the State Engineer's staff for documenting title processing prior to May 1, 2000. Title documents processed after May 1, 2000, will have an "ownership printout" and/or "Report of Water Right Conveyance."

Although research of the available documents on the State Engineer's files can be helpful, persons preparing Reports of Water Right Conveyance should be aware that the State Engineer's office / Division of Water Rights serves only as an office of public record. The water right ownership information contained in those files reflects only that which has been filed with the Division by the public and may or may not be a complete record. Furthermore, there may be several possible interpretations of those documents.

#### 4.4 DIVISION STAFF ASSISTANCE

Although the Division's files and electronic records have been made as accessible as is practically possible, those unfamiliar with the variety of documents contained in those files or with the basic principles of water rights administration will find researching the records to be difficult. Section 11 of this manual contains some additional information regarding the extent to which Division staff can offer assistance in this regard.

## **SECTION 5**

### **WORKING WITH THE COUNTY RECORDER'S OFFICES**

#### **5.1 INTRODUCTION**

The Office of County Recorder is established by state statute and the duties and responsibilities are set forth in Utah Code Ann. §17-21. The County Recorder's Office is the place where documents that establish the ownership of water rights are deposited for record. The County Recorder's offices keep records of all conveyance documents that are submitted to them for recording and is the official office of record for all conveyance documents. Most documents that are recorded are assigned a recording/entry number, book number, and page number, along with the date and time of receipt by the recorder.

#### **5.2 SEARCHING FOR CONVEYANCE DOCUMENTS**

The counties in the state of Utah do not all have the same resources, but most recorders have indexed their records so that documents can be found by researching one or more of the following elements of a deed or land parcel:

- 1) Grantor or grantee name
- 2) Tax serial number, also known as the parcel identification number
- 3) Legal description with a section, township and range
- 4) The number from the county property tax notice, also known as the account number.

As of May 13, 2014 the County Recorder is to keep a separate track index for conveyance documents that are recorded specifically for the water and a search of these records should be available. A competent and thorough search should be made of both the land and water records in the County Recorder's Office.

County Recorders have set aside a portion of their office space for customers to use when doing research at the recorder's office. The recorders or their employees will also usually be able to assist a customer in finding documents. However, they will not compile a history or abstract for a customer. They will normally copy deeds for a specified cost and will make available the other resources they have.

#### **5.3 SITUATIONS REQUIRING PROFESSIONAL ASSISTANCE**

Parties unable to complete their own title research should rely on a professional licensed in Utah, as per Utah Code Ann. § 73-1-10 a land surveyor, a title insurance producer, an attorney or a professional engineer, to complete a thorough search or an abstract of title on a parcel of land and/or related water rights.



## **SECTION 6**

### **HOW TO DETERMINE IF A WATER RIGHT IS APPURTENANT TO LAND**

#### **6.1 INTRODUCTION**

Utah statute allows for the conveyance of water rights either with or without the concurrent conveyance of land. Historically, the law has also set forth conditions under which a water right could be conveyed “silently” (without specific recitation in the conveyance document) as a legal appurtenance to the land on which it is used or approved for use. Those conditions are set forth in Utah Code Ann. §73-1-11.

Prior to May 1, 2000, the State Engineer's office evaluated conveyance documents and related information to determine as correctly as possible the ownership of a water right. The records of the State Engineer were updated only when it became necessary for some administrative action or at the specific request of the water right owner. Complete chains of title were not normally provided to the State Engineer unless a party claiming to be the current owner had some need to demonstrate ownership.

#### **6.2 HOW A WATER RIGHT BECOMES APPURTENANT TO LAND**

All water is the property of the public until a right for its diversion and use is properly established. At that point, the water right becomes associated with or appurtenant to its place of use as indicated on the State Engineer's files. In general terms, current statutes provide that when a water right has been legally established or perfected for use upon a particular parcel of land, or when a water right has been approved for use upon a particular parcel of land, the water right can then be considered to be an appurtenance to that land “for purposes of land conveyances only.” The underlined text is included in the statute because the concept of “appurtenance” has many other legal implications which may not be pertinent to the purposes of this section.

There are several different processes by which a right becomes appurtenant to land:

1. “Pre-statutory water rights” are those which have been established by placing water to beneficial use prior to the enactment of “appropriation” statutes. The pre-statutory dates are 1903 for surface water sources, referred to as “Diligence Claims”, and 1935 for underground water sources, referred to as “Underground Water Claims.”
2. “State appropriated rights” are those established by the filing of an application with the State Engineer, developing the approved beneficial uses, filing a proof of beneficial use and obtaining a certificate from the State Engineer.
3. “Decreed water rights” are those described in and confirmed by an official court decree. Such rights are normally based on evidence provided to the court to demonstrate either a diligence or appropriated right exists. The context of such rights may be interpreted within the Decree. Decreed water rights can be the result of an adjudication where a proposed determination has been published and a court decree has been issued, or a result of a legal action between parties, which has led to the decree.

The place of use to which such rights are legally appurtenant may be defined by proof maps, hydrographic survey maps prepared by the State Engineer's office, or by more or less precise legal land descriptions contained in the documents which establish the rights.

When a new Application to Appropriate Water, an approval of an Application for Permanent Change of Water, or an Exchange Application to relocate all or part of a water right, is approved by the State Engineer those rights are attached or made appurtenant to the approved place of use after May 4, 1998, as per Utah Code Ann. § 73-1-11. An exception to the rule is when an Exchange Application is approved but no proof is required. In this instance, for title purposes only, ownership may be updated by appurtenance based on the approval date of the Exchange Application. If the authorized place of use (hereafter) on an Application for Permanent Change of Water lapses, the place of use will revert to the historic place of use (heretofore) of the water right.

### 6.3 HOW TO SEARCH PROPERTY FOR APPURTENANT WATER RIGHTS

As discussed earlier, the Division of Water Rights website (<http://www.waterrights.utah.gov>) includes several search programs which can be helpful in identifying water rights associated with land parcels. (See Section 4).

### 6.4 PLOTTING PROPERTY DESCRIPTIONS TO DETERMINE APPURTENANCE

A map is a graphical depiction of the water right place of use overlain by the metes and bounds description of the property conveyed in a land deed demonstrating graphically and to scale the portion of the water right which is appurtenant to the property described.

There are a number of ways to determine if a specific parcel of land described in a conveyance document has appurtenant water rights. The approach taken will depend in large part on the information available either in the conveyance document itself, from the parties to the transaction, or from other pertinent sources.

In a situation in which no water right is recited or identified in the document, it will usually be necessary to plot the property description for the parcel. Often the parcel will already be detailed on a County Recorder's ownership plat. The search programs available on the State Engineer's website can be used to help determine if there are any water rights associated with the parcel. The map of the parcel in question should be overlaid or combined with other maps such as proof maps, hydrographic survey maps, or any other data that can show the legal places of use for water rights in the same area.

Any maps used in making such determinations must be attached to the Report of Water Right Conveyance in which the documentation is reported to the State Engineer and must adhere to the mapping standards outlined in Utah Admin. Code R655-3-5 (See Appendix B).

The accuracy and completeness of maps are the responsibility of the professional preparing the Report of Water Right Conveyance. Additional information may be required by the Division of Water Rights to adequately identify the property to which water rights are appurtenant to or the place of use of a portion of a water right being conveyed.

## 6.5 CONVEYANCE AS APPURTENANT OR RESERVATION OF RIGHTS

Much of the confusion related to the interpretation of conveyance documents is associated with documents that are unclear as to the intent of the seller/grantor to convey or to reserve appurtenant water right(s). A careful review of each document is necessary to determine what portion of a water right may have been conveyed.

Effective May 4, 1998, legislation amended Utah Code Ann. §73-1-11 to give some clarification to interpretation of such deeds.

1. For deeds executed either before or after May 4, 1998, if a grantor deeds land to which a water right is appurtenant and makes no mention of a reservation of any or all of the appurtenant right(s), all of the water right(s) is transferred with the land silently.
2. For deeds executed prior to May 4, 1998, if a deed contains a specific conveyance of any part of a water right(s) and does not contain a specific reservation of the remainder, it is presumed that the entire appurtenant water right(s) is conveyed.
3. For deeds executed on or after May 4, 1998, and containing a specific partial conveyance of a water right(s), the remainder of the water right(s) is considered to be reserved to the grantor.
4. For a deed executed on or after May 4, 1998, which specifically reserves a partial interest in an appurtenant water right(s), the remainder is presumed to be conveyed.

## 6.6 BEYOND APPURTENANCE

Once it has been established that a water right is legally appurtenant to a parcel of land, there is still at least one more condition that must be satisfied before a conveyance of the right by appurtenance can occur. That condition is called unity of title. “*Unity of title*” means that the title to the water right(s) and the title to the land are held by the same owner(s). For example, the land may be held in a family trust while the water right(s) is held by individual family members. Or, the land may be held in joint tenancy by a husband and wife, and the water right(s) held in the name of one spouse only. In such cases, a partial conveyance may occur by appurtenance, or there may be no conveyance at all. The preparer of a Report of Water Right Conveyance reporting such conveyances should be prepared to justify any interpretations made.

NOTE: If the professional asserts the place of use is incorrect on the perfected document, they should contact the local Regional Office for further steps that can be taken before ownership can be updated.

## 6.7 COUNTY RECORDER – RELIANCE OF DOCUMENTS

If a County Recorder records a document that conveys a water right(s) appurtenant to land as described in Utah Code Ann., Subsection § 73-1-11(1)(a) and relies on the document to maintain a tract index, the State Engineer shall rely on the document as an effective conveyance of a water right appurtenant to land.

As per Utah Admin. Code R655-3-4.5 documents submitted must include:

1. a chain of title from the person identified on the State Engineer's records as owning the water right(s) to the person shown on the County Recorder's records as owning the property to which the water right(s) is appurtenant;
2. a copy of the tract index from the County Recorder;
3. and/or an affidavit endorsed by the Report of Water Right Conveyance professional affirming that the water right has not been severed from the land but remains appurtenant to the property.

## **SECTION 7**

### **CONVEYANCES TRANSFERRING ONLY A PORTION OF A WATER RIGHT**

#### **7.1 INTRODUCTION**

Under current Utah statutes, a single water right may have several owners, each holding some defined interest in the water right. When an owner holds only a partial interest in a water right and conveys all or part of that partial interest, or when an owner holds a full interest but conveys only a partial interest, there are special considerations that must be made to properly interpret those conveyances.

A special Report of Water Right Conveyance form is used when only a portion of a water right is conveyed (See Section 10). It must be noted that even though a particular grantor may be conveying his/her entire right, title and interest, that interest may not represent the entire water right as described in the records of the State Engineer.

#### **7.2 DETERMINATION OF BENEFICIAL USE CONVEYED**

As was detailed in Section 2 (The Basics of Water Rights), the basis, the measure and the limit of a water right is determined by the beneficial use(s). When water right conveyance documents transfer only a partial interest in a particular water right, the conveyed interest may be defined in the documents in several ways including: volume of diversion allowance (e.g., 2.5 acre-feet) and/or percentage or fractional interest in the water right (e.g., an undivided 25% interest or a 1/3 interest).

In each case, it will ultimately be necessary to quantify the interest conveyed in terms of beneficial use. If the water right has only a single beneficial use, the determination of the beneficial use conveyed is usually accomplished by a simple proportion of the conveyed interest.

However, if a water right sustains two or more beneficial uses (for example, 100 acres of irrigation, stockwatering of 150 cattle, and domestic use for three families), or is the subject of a pending change application which proposes the development of multiple beneficial uses, the conveyed beneficial uses cannot be as readily determined. In this event, there are at least two alternatives that may be pursued:

1. Proportion the conveyed interest among all the sustained beneficial uses (only a professional can determine).
2. An affidavit or other document from the parties to the original conveyance, which will clarify the intent in terms of beneficial use.

The first alternative can be problematic in several respects. The assumption of proportionate conveyance may be contrary to the actual intent of the parties. For example, a seller intending to only sell a portion of the irrigation use under a particular water right may be interpreted to have sold all or part of a domestic use that was required for an occupied home retained by the seller. For this reason, the second alternative is the preferred course of action in most circumstances.

### 7.3 MULTIPLE GRANTORS/GRANTEES

Conveyance documents listing multiple grantors or multiple grantees may also require special considerations. These considerations can be especially difficult if the multiple grantors did not acquire their respective interests jointly or if the distribution of conveyed interests among the grantees is not specified.

#### 7.3.1 MULTIPLE GRANTORS WITH INDEPENDENTLY ACQUIRED INTERESTS

A water right may be owned by more than one party. Consider a situation in which Party A has received 0.25 acre (1.0 acre-foot), Party B has received 0.50 acre (2.0 acre-feet), and Party C has received 1.25 acres (5.0 acre-feet). The three parties are then listed as common grantors on a conveyance to Party D for 0.375 acre (1.50 acre-feet) in the subject right. Lacking other information, it is not possible to accurately determine how each grantor's interest is to be reduced. The options are to:

1. Obtain an affidavit or other document from the grantors which will clarify the amount of the water right **retained** by each party.
2. Obtain an affidavit or other document from the grantors which will clarify the amount of the water right **conveyed** by each party.
3. The professional can determine the amount retained by each owner on the portion Report of Water Right Conveyance form and include justification for their interpretation of the amount retained by the owners.

#### 7.3.2 MULTIPLE GRANTEES WITH UNSPECIFIED DISTRIBUTION OF INTERESTS

Tenancy in Common – Tenancy in common is when two or more people hold title jointly, with equal rights to enjoy the property during their lifetime (undivided interest). However, it's different from "joint tenancy" being that tenants in common hold title "individually" for their respective "part" of the property. As tenants in common owners can have equal ownership or they can each own different percentages of the property. To accurately determine each owner's interest in the water right, the professional will need to submit an affidavit clarifying the interest of each owner, before ownership can be updated.

Joint tenants - Under current statutes, multiple grantees are considered to receive title as tenants in common unless the language in the conveyance documents implies or specifies joint tenancy (as provided by Utah Code Ann. § 57-1-5) in which case the joint interest is considered to be equal and undivided. As described above, such divisions of interest may have the effect of creating divided interests in indivisible units (such as domestic uses). This situation may or may not become a problem, depending upon the grantee's intent regarding possible segregation of their respective interests (See Section 8).

### 7.4 MULTIPLE RIGHTS IN A SINGLE CONVEYANCE DOCUMENT

Documents conveying partial interests (or a combination of partial and full interests) in several water rights are not uncommon. Such documents may become difficult to interpret, especially if the conveyed amount is defined only in terms of flow ( cfs/ gallons per minute) or diversion

allowance (acre-feet) and the deed does not specify the manner in which the conveyed interest is to be distributed from among the several rights. If the available documents do not make clear the intent of the grantor, it is recommended that an affidavit or other document be acquired to clearly set forth the intentions of the parties to the original conveyance.

#### 7.5 PARTIAL CONVEYANCE BY APPURTENANCE TO LAND

If the grantor holds title to both the land and the appurtenant water right(s) at the time of conveyance, then the appurtenant water right(s) are conveyed in proportion to the portion of the defined place of use conveyed. Under an approved change application, the defined place of use will be determined by the approved hereafter place of use. See Section 6 of this manual for additional information regarding conveyance by appurtenance to land.

#### 7.6 FULL/PARTIAL CONVEYANCE BY SOURCE

In some instances, a conveyance document will recite a full or partial interest in a particular source of water or point of diversion. If a water right is not specifically recited in the conveyance document then the water right is assumed to be conveyed by the appurtenance and not by the source or point of diversion that may be recited in the document.

#### 7.7 PARTIAL CONVEYANCES OF SUPPLEMENTAL WATER RIGHT(S)

Some conveyances may recite a full or partial interest in a supplemental right for which there is no defined sole supply. In such cases, although the recital may appear to clearly specify a quantity of water being conveyed, it is not always possible to determine the quantity of the beneficial use which has been conveyed until a sole supply has been established. (Section 2 of this manual defines the concepts of supplemental and sole supply water rights.)

However, in many cases conveyances do not contain sufficient information to determine the specific intent and amounts of the conveyance. Although the documents that have been executed and recorded establish that some water right interest has been relinquished and received, that interest must also be determined in respect to the beneficial use and sole supply. By submitting a Declaration of Beneficial Use from all parties in the supplemental group(s) this can be easily accomplished.

If the conveyance document conveys a percentage of the water right, ownership can be updated as a percentage of that particular water right without having the sole supply defined.

#### 7.8 PRIOR RECORDS FAILING TO SPECIFY BENEFICIAL USE

There will be many cases in which prior conveyance documents, including those already processed and reflected on the records of the State Engineer, will fail to adequately specify the beneficial use(s) conveyed or owned. For those documents already contained in the State Engineer's records, the ownership interest will be defined only as an undivided percentage, proportionate interest, or as an acre-foot amount in a water right and/or change application. In many instances, the parties to the prior documents will not be available for consultation or designation of the intent of the prior documents. In those circumstances, the professional preparing and certifying the Report of Water Right Conveyance will be expected to

observe any pertinent statutes, prior case law, or commonly accepted rules of reasonableness in determining effect. The certifying professional should include a sufficient narrative with the Report of Water Right Conveyance to clarify the principles employed in making the determination reported.

## 7.9 INTERNAL INCONSISTENCY IN CONVEYANCE DOCUMENTS

Some conveyance documents may recite interests in a manner which is internally inconsistent. For example, a document may recite both a beneficial use and a flow or diversion allowance which do not coincide with one another i.e.:

1. Five acre-feet of water for irrigation of 2.5 acres and domestic use for one family.
2. 0.01 cfs from Flinger Spring for 40 acres of irrigation and 20 head of cattle.

In these examples, the diversion allowance (Five acre-feet) and flow (0.01 cfs) are each insufficient for the beneficial uses recited. It may be argued that the more restrictive element of the deed should rule, but whereas beneficial use constitutes the defining element of a water right by statute, it generally is considered the controlling factor in such cases. If such an interpretation does not reflect the true intent and understanding of the seller and/or the buyer, additional documentation (affidavits or corrective conveyance documents) will be required to clarify the conveyance.

## 7.10 SPECIAL CAUTIONS RELATED TO CONVEYANCE OF PROPORTIONATE INTERESTS

Documents which convey fractional or a percentage of undivided interests in water rights can be especially difficult to interpret. For example, if Party A acquires an undivided 50% interest in a right and subsequently executes a document to convey a 40% interest to Party B, it may not be clear whether the conveyed percentage is to be applied to the entire water right or only to the interest held by Party A. In the first case, Party B would receive a full 40% of the total right; in the second, Party B receives only 20% (40% of 50%) of the right, a significant difference.

Another potential problem occurs when a party acquires a specified percentage interest in a water right, then segregates a portion of their interest in that water right off (See Section 8). After segregating a portion off, they then convey a percentage of interest in the parent right to another party. Does the second party receive the recited percentage of the original water right, or of the reduced water right as defined after the segregation? For example, Party A acquires an undivided 40% interest in water right 11-123, a right for the irrigation of 100 acres. Party A then segregates 20 acres of that interest in order to file a change application, reducing water right 11-123 to 80 acres. Party A then conveys to Party B a 10% interest in water right 11-123. What is conveyed to Party B? Ten acres or eight acres?

In nearly all such cases, it will be necessary to obtain additional documents and/or additional information from the parties to enable a determination of the intent of the conveyance in terms of beneficial use.

If an interest in a water right has been segregated from another water right, a deed recorded subsequent to the segregation must show the currently assigned water right number for the segregated water right.

## **SECTION 8**

### **WATER RIGHT SEGREGATIONS**

#### **8.1 INTRODUCTION**

This section will briefly explain the concept of water right segregations and the manner in which segregations must be considered in assembling and reporting a chain of title to water rights. An understanding of protocols used in numbering water rights and applications, as well as an understanding of an “unperfected” versus “perfected” applications, will be essential to a full understanding of this discussion. Those subjects are described in detail in Section 2 of this manual.

#### **8.2 WATER RIGHT SEGREGATION DEFINED**

A water right segregation is an administrative action taken by the State Engineer, upon a written request by the applicant, to separate some portion of a water right (referred to as the “child right”) from the original right (or “parent right”) and to reduce the original right accordingly. Typically, a segregation reduces all quantified elements of the parent right, including the beneficial use(s), any defined flow restrictions, and/or the associated diversion allowance(s). The limited exceptions to this rule are defined in the following paragraphs.

#### **8.3 WATER RIGHT SEGREGATIONS: WHY & WHEN**

There are generally three situations in which a water right segregation will be necessary:

1. An owner of a partial interest in a water right or pending application to appropriate desires to separate that partial interest in order to file an application or a proof;
2. An owner of a full interest in a water right or pending application to appropriate desires to separate some portion in order to file an application or a proof;
3. The State Engineer can determine that some quantified element of a water right or pending application to appropriate require removal or adjustment.

Typically, only the first two situations will be encountered in preparing a Report of Water Right Conveyance. There is presently no difference between segregation of a perfected water right vs an unperfected water right. The applicant simply requests on the form provided that a water right be segregated and specifies in detail (flow, volume, and uses) what is to be segregated.

The “Statement of Ownership Segregation” or “Application to Segregate” document will each contain the new water right number and application number, in the case of the pending application, along with a description of the beneficial use(s) and other quantified elements being separated from the parent water right. The file for the parent right will contain a document which will list all segregations from that right along with summary totals of the elements remaining in the parent right.

#### **8.4 ESTABLISHING CHAIN OF TITLE TO SEGREGATED RIGHTS**

The following scenario describes a typical situation:

- 1) Party A is conveyed a right for 0.50 acre of irrigation (2.0 acre-feet) in water right number 11-1234, and the State Engineer's records have been endorsed to show that conveyance.
- 2) Party A requests the State Engineer's office to segregate their portion of water right number 11-1234 (0.50 acre of irrigation, 2.0 acre-feet).
- 3) The State Engineer's office prepares a segregation and assigns Party A's interest a new water right number 11-3456.
- 4) Party A conveys some or all of the 2.0 acre-feet interest to Party B.

It is at point 4) that a Report of Water Right Conveyance will be required to amend the records to reflect the interest conveyed to Party B. It is also at this point that a number of errors may occur and special considerations must be made. (Example: If the deed mentions the parent water right number, 11-1234 and is recorded prior to the segregation, but submitted after the segregation, errors could occur by updating the parent water right, when the intention was to convey the segregated portion. Special consideration would be made, by submitting a report of water right conveyance form for the segregated water right 11-3456.)

It should be noted that, although Party A took title in water right 11-1234 as an owner of a partial interest, the conveyance to Party B (deed recorded after the segregation) must reference the segregated water right by its own number, 11-3456, as per Utah Admin. Code R655-3-4.6.

#### 8.4.1 CONVEYANCE OF THE SEGREGATED RIGHT

If the intent of Party A is to convey the entire water right to Party B, the conveyance must merely recite the water right number of the child right (e.g., "all right, title and interest in water right 11-3456", or, "2.0 acre-feet in water right 11-3456").

If the conveyance document recites the interest in the parent right (e.g., "2.0 acre-feet of water right 11-1234") without any reference to the child right (e.g., "now on the records of the State Engineer as water right 11-3456, change application a12345"), the conveyance document is not adequate to convey title on the child right and must be supplemented by a "corrective" document, properly executed and recorded as required by statute. This can be especially problematic if Party A has retained some interest in the parent right (11-1234) which will be inadvertently conveyed by the improperly prepared document.

NOTE: If the conveyance document conveys title to the parent right and a segregation was filed after the recording date of that conveyance document, then ownership of the child right is adequately conveyed.

## **SECTION 9**

### **HOW TO COMPILE A “CHAIN OF TITLE”**

#### **9.1 INTRODUCTION**

Many Reports of Conveyance will report two or more conveyance documents whereby ownership passes through several parties. A complete “chain of title,” for the purposes of a Report of Water Right Conveyance, is simply a grouping of such documents whereby a particular ownership interest is demonstrated to be conveyed from one party already recognized as the owner on the State Engineer’s records, through one or more owners to a final party seeking to have the ownership recorded in the State Engineer’s files.

Figure 9.1 is a flow chart depicting the general process and considerations that will be encountered in assembling the conveyance documents that will constitute a complete chain of title.

#### **9.2 COMPILING A CHAIN OF TITLE**

In compiling a chain of title, the starting point is a review of the State Engineer’s records to determine the presently recognized owner(s) of the right(s) in which you are interested. The State Engineer’s office will only process a Report of Water Right Conveyance (mentioned in Section 10) that has been received with the accompanying deeds. There may be other conveyance documents that have not been received or processed by the State Engineer’s office. However, all newly submitted Reports of Conveyance must start with the owner of record, identified by the State Engineer.

If the available documents do not constitute a full chain of title to the person currently claiming ownership, the next step is to search the records of the County Recorder’s office. Under Utah Code Ann. § 73-1-10, water rights are to be transferred by deed whether conveyed with property by appurtenance or by water right number. All such deeds must be recorded in the office of the recorder of the county where the point of diversion of the water is located and in the county where the water is used (See Sections 3 and 5).

A complete chain of title will have the following characteristics:

- 1) The grantor(s)/seller(s) on the first document in the chain will be the same as the owner(s) currently shown in the State Engineer’s records.
- 2) The grantee(s)/buyer(s) on the first document will be the same as the grantor(s)/seller(s) on the second document, with this pattern repeating through all successive documents.
- 3) Although the language used may vary through the successive documents, the same identifiable ownership interest will be recited in each document.
- 4) The grantee(s)/buyer(s) in the final document will be listed in the Report of Water Right Conveyance as the party currently requesting an ownership update on the records of the State Engineer.

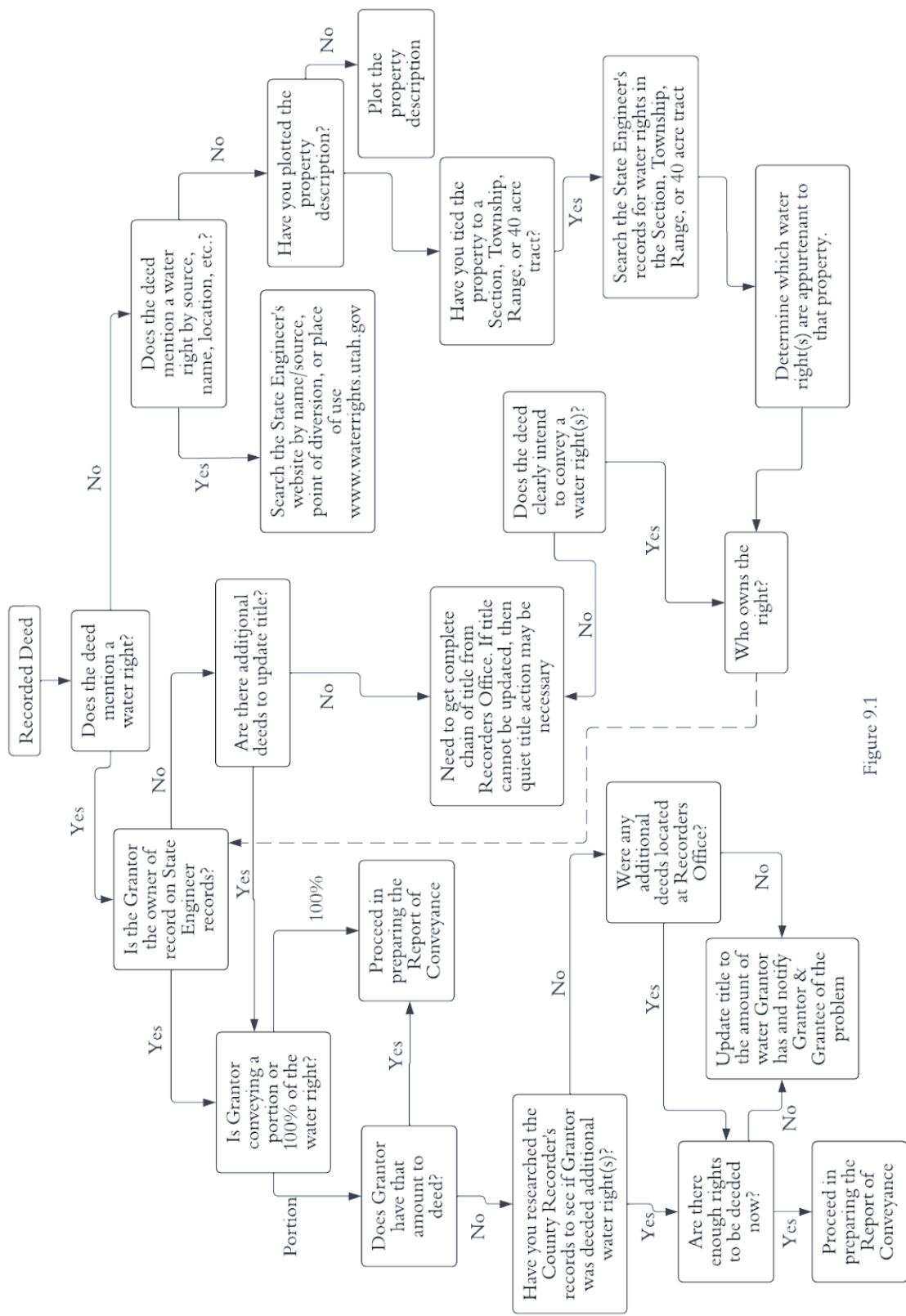


Figure 9.1

### 9.3 PARALLEL CHAINS OF TITLE

Some chains of title may “diverge” into two or more parallel chains which may later “re-converge” into a single serial chain. For example:

- 1) Party A is the owner of record of 100% of a particular water right on the records of the State Engineer.
- 2) In three separate documents, Party A conveys a 30% partial interest to Party B, a 20% partial interest to Party C, and a 15% partial interest to Party D. At this point, the chain has diverged into four parallel chains, with Party A retaining a 35% interest. The three documents should be reported in the order in which they were recorded.
- 3) Party A, Party C and Party D, each in separate documents, convey their respective interests to Party B. The chain has now re-converged back to a single owner. Again, the three documents should be reported in recording order. If there is more than one conveyance document coming from each, Party A, Party C and Party D, through the chain of title, then follow that chain on the Report of Water Right Conveyance from each party until it comes back to Party B.

### 9.4 COMMON PROBLEMS IN COMPILING CHAINS OF TITLE

There are many factors that can cause problems in compiling chains of title. Some of these problems are due to the difficulty in determining the intent of conveyance documents. In other cases, the documents themselves are flawed such that they prevent compilation of a proper chain of title. Some commonly encountered problems may include:

1. The document recites the wrong water right number. In some cases, this will be a simple typographical error. In others, the deed will recite the “parent” number instead of the “child” number (See Section 8). Additional documents and/or conveyance documents may be required to clarify the information in the deed.
2. The document was not recorded or was recorded “out of order.” This is common when a quit claim deed is improperly believed to pass “after acquired title” (Utah Code Ann. §§ 73-1-12 and 57-1-10 (See Appendix A)). Generally, additional documents and/or conveyance documents may be required.
3. The grantor on the conveyance document is not the same as the grantee on the previous document (e.g. Title was received under a business name, trust, etc., but attempts to convey as an individual). Additional documents and/or conveyance documents may be required.
4. The conveyance document is recorded in the wrong county or is not recorded in both counties where the water is diverted and used (Utah Code Ann. § 73-1-10 (See Appendix A)). In such cases, a single document can be recorded in more than one county where required.
5. A document recites a greater interest than the grantor(s)/seller(s) have acquired by prior conveyances. In the case of a quit claim deed, whatever interest is held at the time of “delivery” of the deed will be conveyed (Utah Code Ann. § 57-1-13 (See Appendix A)). In the case of a warranty deed (Utah Code Ann. § 57-1-12 (See Appendix A)), additional

documents and/or conveyance documents may demonstrate a case in which “after acquired title passes” (Utah Code Ann. §57-1-10 (See Appendix A)).

## **SECTION 10**

### **PREPARING A REPORT OF WATER RIGHT CONVEYANCE AND ADDENDUMS**

#### **10.1 INTRODUCTION**

In compliance with Utah Code Ann. § 73-1-10, as amended (See Appendix A), water right owners must submit to the State Engineer a Report of Water Right Conveyance Form (ROC) to update the ownership records on the State Engineer's files.

The State Engineer's office will provide two separate forms for the professional or individual to use in preparing the required reports. The forms are online at the following web address: <https://waterrights.utah.gov/wrinfo/forms/default.asp>.

The first form will be for 100% conveyance of a water right. The second form will be for conveyance of a partial interest in a water right. It should be noted that, even if an owner is conveying 100% of their own interest, a Report of Water Right Conveyance (100%) form might be used, unless there is some confusion in which we will require a Report of Water Right Conveyance (Portion) form. You can fill out this form online, and then click the button to generate the printable form, then print the ROC form from the resulting .pdf file. If you would like to print a blank ROC form, simply leave the water right number field blank, and click the button to generate the printable ROC form.

#### **10.2 INSTRUCTIONS FOR COMPLETION OF REPORT OF WATER RIGHT CONVEYANCE FORMS**

Following are general instructions for completion of the two types of report forms. These instructions are offered as general guidelines only. The party completing the form may find it necessary to attach additional documentation or narrative in order to assemble a report that is acceptably complete for filing.

##### **10.2.1 MULTIPLE RIGHTS CONVEYED IN A COMMON CHAIN OF TITLE**

A separate Report of Water Right Conveyance will be required along with the supporting documents for each individual water right for which the State Engineer's records are to be updated.

#### **10.3 REPORT FORMS FOR 100% CONVEYANCE OF A WATER RIGHT**

##### **SECTION A. CONVEYANCE SUMMARY**

This section is used to provide summaries of the individual conveyance documents being reported and provides space to summarize up to three conveyance documents. If more than three documents are being reported, additional pages bearing Section A must be attached to the report. The documents being reported should be listed in order of effective date with the earliest document listed first and the most recent document last i.e. oldest to newest.. At the top of the form, the water right number and any pending change application numbers will be entered. When

100% of a water right is conveyed, all associated applications of this type are considered to be conveyed as well. If there is no water right number mentioned on the deed you will need to indicate, “yes or no” if a map is attached, (if the deeds are conveying by appurtenance) and then proceed to fill out the seven items listed under each conveyance summary. The conveyance summaries are to be completed as follows (numbers correspond to the numbered items within Section A):

- 1) Indicate the type of document by an “X” or describe the conveyance document under “Other.”
- 2) Obtain this information directly from the conveyance document and County Recorder's stamp. If the signature date and the notarization date differ, the notarization date should be used as the “date signed.”
- 3) Grantor: List the grantor name(s) exactly as it appears on the conveyance document. Any differences between the grantor name(s) on the document and on the State Engineer’s water right file must be rectified using appropriate affidavits or other documents.
- 4) Grantee: List grantee name(s) exactly as it appears on the conveyance document.
- 5) Mailing Address: List current mailing address of new owner(s). The new owner(s) should be informed that, if at any time their address changes, they must notify the State Engineer’s office of the new address so that correspondence is sent to a correct address. The State Engineer’s office will send official notices regarding administrative actions only to the owner and address of record on the water right records.
- 6) Email Address: This is only for notification of ownership updates.
- 7) Special Conditions of Conveyance: List any special conditions which help define the intent or limits of the conveyance document. Examples of special conditions may include: Any reservation of the water right, parcel numbers and/or any other information that would be helpful in understanding the chain of title or the document submitted.

**Note: Under Section A Conveyance Summary, preparer will need to indicate with an “X” if a map is attached when updating by appurtenance. Maps are required as per Utah Admin. Code R655-3-5 (See Appendix B).**

## SECTION B. CERTIFICATION

Complete this section with the information requested. The certification section is to be completed by the professional preparing or supervising the preparation of the report or the grantee preparing the form as allowed under Utah Admin. Code R655-3-4 (See Appendix B).

## SECTION C. DIVISION OF WATER RIGHTS - FOR OFFICE USE ONLY

This section is to be completed by personnel of the State Engineer’s office.

### 10.3.1 REPORT FORMS FOR PARTIAL CONVEYANCE OF A WATER RIGHT

Again, please note that although a chain of title may convey 100% of a particular party’s interest in one or more water rights, such conveyances may or may not convey the water right in its entirety. Independent research of the State Engineer’s records may be necessary to determine if the conveyed interest represents a full or partial interest in a particular right (See Section 4).

When a portion of a water right is conveyed, all associated applications of this type are considered to be conveyed as well.

At the top of the form, list the water right number along with any pending change application numbers.

### 10.3.2 WATER RIGHT TOTAL INTEREST CONVEYED

The first page in this section of the form should list the party's ***final interest conveyed***. The first page begins with:

**NEW OWNER(S)**: List the name(s) exactly as it appears on the final conveyance document listed in Section A of the report.

**MAILING ADDRESS**: List current mailing address of new owner(s). The new owner(s) should be informed that, if at any time their address changes, they must notify the State Engineer's office of the new address so that correspondence is sent to a correct address. The State Engineer's office will send official notices regarding administrative actions only to the owner and address of record on the water right records.

**EMAIL ADDRESS**: Grantee/new owner may include email address, however this is to be used to notify of the ownership update.

#### **TOTAL BENEFICIAL USES CONVEYED:**

- **WATER RIGHT**: List the sole supply limit for each use that is acquired by the grantee/new owner. (See Section 2 for details regarding "sole supply" definitions).
- **CHANGE APPLICATION**: List the sole supply limit for each use that is acquired by the grantee/new owner. (See Section 2 for details regarding "sole supply" definitions).

**DIVERSION LIMIT**: List any diversion amount deeded to the new owner in acre-feet. A figure will be calculated by the professional or applicant submitting the report as needed utilizing current "duties" for the listed beneficial uses (See Section 2). There may be times when a percentage amount will need to be listed as the diversion limit.

#### **INTEREST RETAINED BY PREVIOUS OWNER (SPECIFY FOR EACH OWNER)**

**TOTAL BENEFICIAL USES RETAINED**: List the sole supply amount retained by the previous owner. If more than one owner has conveyed, specify the amount retained by each of those owners.

**DIVERSION LIMIT**: List any diversion amount retained by the previous owner in acre-feet. A figure will be calculated by the professional or applicant submitting the report as needed utilizing current "duties" for the listed beneficial uses (See Section 2). There may be times when a percentage amount will need to be listed as the diversion limit.

**EXPLANATION OF CONVEYANCE/SPECIAL CONDITIONS OF CONVEYANCE**: List any special conditions which help define the intent or limits of the conveyance document. Examples

of special conditions may include: Any reservation of the water right, parcel numbers and/or any information that would be helpful in understanding the chain of title or the document submitted.

#### SECTION A: CONVEYANCE SUMMARY

This section is used to provide summaries of the individual conveyance documents being reported. At the top of the form, enter the water right number. The remainder of this section provides space to summarize up to two conveyance documents per page. If more than two documents are being reported, additional pages bearing Section A must be attached to the report. Documents should be reported by effective date with the earliest document listed first and the most recent document last. If there is no water right number mentioned on the deed you will need to indicate, “yes or no” if a map is attached, (if the deeds are conveying by appurtenance). The document summaries are to be completed as follows (numbers correspond to the numbered items within Section A):

- 1) Indicate the type of document by an “X” or describe the conveyance document under “Other.”
- 2) Obtain this information directly from the conveyance document and County Recorders stamp. If the signature date and the notarization date differ, the notarization date should be used as the date signed.
- 3) Grantor: List the grantor name(s) exactly as it appears on the conveyance document. Any differences between the grantor name(s) on the document and the State Engineer’s water right file must be rectified using appropriate affidavits, etc.
- 4) Portion of Beneficial Uses Conveyed:
  - a) Water Right: List the amount and type of beneficial use under the water right that was conveyed by *this document*.
  - b) Change Application: Indicate the amount of each type of beneficial use that was conveyed with any pending change application associated with the water right conveyed.
- 5) Diversion Limit: List any diversion amount deeded to the grantee in acre-feet. A figure will be calculated by the professional or applicant submitting the report as needed utilizing current “duties” for the listed beneficial uses (See Section 2). There may be times when a percentage amount will need to be listed as the diversion limit.
- 6) SPECIAL CONDITIONS OF CONVEYANCE: List any special conditions which help define the intent or limits of the conveyance document. Examples of special conditions may include: Any reservation of the water right, parcel numbers and/or any information that would be helpful in understanding the chain of title or the document submitted.
- 7) Grantee(s): List grantee name(s) exactly as it appears on the recorded conveyance document.
- 8) MAILING ADDRESS: List current mailing address of new owner(s). The new owner(s) should be informed that, if at any time their address changes, they must notify the State Engineer’s office of the new address so that correspondence is sent to a correct address. The State Engineer’s office will send official notices regarding administrative actions only to the owner and address of record on the water right records.

- 9) EMAIL ADDRESS: Grantee/new owner may include email address, however this is to be used to notify of the ownership update.

## SECTION B. CERTIFICATION

Complete this section with the information requested. The certification section is to be completed by the professional preparing or supervising the preparation of the report or the grantee preparing the form as allowed under Utah Admin. Code R655-3-4 (See Appendix B).

Note: Under Section A Conveyance Summary, preparer will need to indicate with an “X” if a map is attached when updating by appurtenance. Maps are required as per Utah Admin. Code R655-3-5 (See Appendix B).

## SECTION C. DIVISION OF WATER RIGHTS - FOR OFFICE USE ONLY

This section is to be completed by personnel of the State Engineer’s office.

### 10.3.3 SUPPORTING DOCUMENTATION

In addition to the completed report forms, as described above, an acceptably complete Report of Water Right Conveyance will also include the following:

- 1) Clear and legible copies of all conveyance documents as described in the “Conveyance Summary” sections of the report assembled by effective date (execution date or recording date, as may be appropriate). In the case of recordable documents, the copies provided must bear the County Recorder's stamp and indexing information. Documents that are “unofficial” or “electronically filed” will not be accepted. Affidavits and other documents provided in support or clarification of a particular conveyance document should be located in the report adjacent to the document(s) to which they refer.
- 2) Clear and legible copies of any maps used or prepared in determining conveyance of a water right interest by appurtenance to place of use. Such maps must comply with Utah Admin. Code R655-3-5. Maps submitted must bear sufficient information to readily determine their relationship to the water right interest portrayed and to any conveyance documents to which the map pertains.
- 3) Any narrative or explanatory statements deemed necessary to clarify the statutes, rules, court findings, etc. which have been employed by the preparer of the report in arriving at the conclusions reported.
- 4) A properly executed affidavit by an individual evidencing aliases by which the individual may be named in other documents.

### 10.4 WHO CAN SUBMIT A REPORT OF WATER RIGHT CONVEYANCE

A Report of Water Right Conveyance may be submitted by the owner of a water right without the certification of a professional only in the following situations:

- 1) When the deed or deeds convey 100% of a water right and state the water right number on the deed.

- 2) When the deed or deeds convey an owner's interest in a portion of a water right, all owners of that interest of the right shall sign the deed as grantors, the deed conveys the portion by stating the water right number on the deed, and the sole supply has been established for the portion conveyed.
- 3) When the Report of Water Right Conveyance is submitted to change the name of an owner but does not report the conveyance of an interest in the water right to a new party.
- 4) When the Report of Water Right Conveyance is submitted to remove the name of a joint tenant due to death.

In all other instances one of the following professionals licensed in the State of Utah will need to be retained: a professional engineer, a land surveyor, an attorney, or a title insurance producer.

## 10.5 WATER RIGHTS ADDENDUM

Beginning July 1, 2011, a person submitting an applicable deed to a County Recorder's office for recording may also submit a water rights addendum as an addendum to the applicable deed. An addendum to a deed clarifies the water right conveyed by the deed pursuant to Utah Code Ann. §§ 73-1-10 and Subsection 73-1-11(6). Addendums are recorded with the deed it accompanies at the appropriate County Recorder's office and are forwarded by the County Recorder to the State Engineer pursuant to Utah Code Ann. § 57-3-109.

**NOTE: Addenda cannot be used alone and must be attached to an applicable deed. It cannot be attached to any other document including death certificate, affidavit, and/or any other document, only an applicable deed.**

## 10.6 WATER RIGHTS ADDENDUM TO LAND DEEDS

### 10.6.1 PREPARING WATER RIGHTS ADDENDUM

GRANTOR: List the grantor(s) as shown on the conveyance document.

GRANTEE: List the grantee(s) as shown on the conveyance document.

TAX ID NUMBER(S): List the tax ID number or parcel number assigned by the County Recorder, which is associated with the land described on the deed.

### CHECK ONE BOX ONLY:

- 1) All of Grantor's water rights used on Grantor's Parcel(s) are being conveyed
  - a) Proceed to Section A: this conveyance includes all appurtenant water rights, whether or not they are listed by water right number or are of record; only water right numbers listed on the addendum will be updated.
- 2) Only a portion of Grantor's water rights are being conveyed
  - a) Proceed to Section B: All of Water Right No(s). 100% of the water rights listed here are being conveyed to Grantee. The Water Rights listed in Section B may not provide sufficient water for all of the historical water uses.

- b) Can list the water right number and change application. Less than 100% of the water right listed is being conveyed to Grantee. Identify the acre-foot amount, water right number (water right number and change application number, if any), define which use(s) and amount.

#### PROCEED TO SECTION C: DISCLOSURES BY GRANTOR

Grantor indicates any or all that apply:

- 1) Grantor is endorsing and delivering to Grantee stock certificates listing a specific amount of shares and the name of the water company.
- 2) List Culinary water service (if provided).
- 3) List Outdoor water service (if provided).
- 4) Check if there is no water service available to Grantor's Parcel(s).
- 5) List any other water related disclosures.

\*Attach and sign additional copies of the form if more space is needed.

GRANTOR'S SIGNATURE: All Grantor(s) as shown on the deed need to sign.

GRANTEE'S ACKNOWLEDGMENT OF RECEIPT: All Grantee(s) as shown on the deed need to sign.

GRANTEE'S MAILING ADDRESS: List current mailing address of grantee(s). The new owner(s) should be informed that, if at any time their address changes, they must notify the State Engineer's office of the new address so that correspondence is sent to a correct address. The State Engineer's office will send official notices regarding administrative actions only to the owner and address of record on the water right records.

#### 10.7 WATER RIGHTS ADDENDUM TO WATER DEEDS

GRANTOR: List the grantor(s) as shown on the conveyance document.

GRANTEE: List the grantee(s) as shown on the conveyance document.

WATER RIGHT NO(S): Only water right numbers listed on the addendum will be updated.

SECTION 1 – TYPE OF DEED: Check one box which is applicable to the deed attached to the addendum. There are three general types of deeds which can be used to convey water rights; warranty deeds, special warranty deeds, and quit claim deeds. The primary difference between them is the type of warranty being given, which has a dramatic effect on the rights and responsibilities of both the Grantor and the Grantee. If you are unsure about the type of deed that you should use or accept, you should obtain legal advice on this issue.

#### SECTION 2 – APPURTENANT WATER RIGHTS

Check any boxes that apply.

#### SECTION 3 – WATER RIGHTS CONVEYED IN WHOLE OR IN PART

- 1) All of Water Right No(s). 100% of the water rights listed here are being conveyed to Grantee. List the water right numbers to be updated.
- 2) Less than 100% of the water right listed is being conveyed to Grantee. Identify the acre-foot amount, water right number (water right number and change application number, if any), define which use(s) and amount.
- 3) Or The language in the deed is controlling as to quantity, if any.

#### SECTION 4 – OTHER DISCLOSURES

- 1) Grantor is endorsing and delivering to Grantee stock certificates listing a specific amount of shares and the name of the water company.
- 2) List any other water related disclosures.

GRANTOR’S SIGNATURE: All Grantor(s) as shown on the deed need to sign.

GRANTEE’S ACKNOWLEDGMENT OF RECEIPT: All Grantee(s) as shown on the deed need to sign.

GRANTEE’S MAILING ADDRESS: List current mailing address of grantee(s). The new owner(s) should be informed that, if at any time their address changes, they must notify the State Engineer’s office of the new address so that correspondence is sent to a correct address. The State Engineer’s office will send official notices regarding administrative actions only to the owner and address of record on the water right records.

NOTE: A water rights addendum acts as a Report of Water Right Conveyance when a recorded Deed and water right or land addendum is transmitted to the State Engineer by a County Recorder, as required by Utah Code Ann. §57-3-109. The State Engineer under Utah Code Ann., Subsection 73-1-10(1)(d)(ii) will process the Water Rights Addendum as though it were a submitted Report of Water Right Conveyance.

# **SECTION 11**

## **WORKING WITH DIVISION OF WATER RIGHTS STAFF**

### **AND**

## **SUBMITTING A REPORT OF WATER RIGHT CONVEYANCE**

### **11.1 INTRODUCTION**

The previous sections of this training manual have described in detail the technical aspects of the research and documentation necessary to prepare an “acceptably complete” Report of Water Right Conveyance. This section will offer some informal guidelines for working with personnel of the State Engineer’s office / Division of Water Rights and will explain the manner in which the completed report is to be submitted.

### **11.2 WORKING WITH THE STAFF OF THE DIVISION OF WATER RIGHTS / STATE ENGINEER’S OFFICE**

The legislation by which Utah Code Ann. § 73-1-10 was amended to require the filing of Reports of Conveyance was motivated by the fact that the State Engineer’s staff was spending an inordinate amount of time doing “title work.” While the importance of maintaining accurate ownership records is not to be minimized, it was recognized that such work was not within the tasks mandated to this office and were interfering with the accomplishment of those tasks that were statutorily mandated.

The amount of assistance that can be offered to those preparing reports must be limited. Therefore, except in the case of very simple reports, a group of specific professionals (an attorney; a professional engineer; a title insurance producer; or a professional land surveyor) have been designated to prepare the required reports. Those professionals are expected to have a substantial understanding of the principles and statutes governing conveyance of title to property and mapping of standard legal descriptions.

### **11.3 LIMITATIONS ON STAFF ASSISTANCE**

Rather than attempt to itemize those areas in which the State Engineer’s staff can provide assistance, it will be simpler to identify some specific areas in which assistance typically cannot be provided:

- 1) Staff will not be able to complete any part of the Report of Water Right Conveyance form(s) that are designated for completion by the preparer.
- 2) Staff will not provide forms for nor assist in the preparation of deeds, assignments, affidavits or other conveyance documents.
- 3) Persons preparing Reports of Conveyance can be given access to such documents and/or indices, but staff will not be available to conduct or assist in basic title research nor to offer interpretation of documents.
- 4) All water right records are maintained in the Division’s main office in Salt Lake City. All information contained in the official files are considered to be public information and copies are available (at designated costs) to all interested parties. You can also access the

scanned documents on the Division of Water Rights website at [www.waterrights.utah.gov](http://www.waterrights.utah.gov) (See Section 4.2).

With the foregoing exceptions, the State Engineer's staff in both the regional offices and the main office will provide assistance to persons assembling and preparing Reports of Conveyance. Current report forms will be available as will copies of this training manual (See Section 10).

The several regional offices, together with their addresses, telephone numbers and hydrologic areas administered are tabulated below.

### 11.3.1 DIVISION OF WATER RIGHTS REGIONAL OFFICES

REGION	ADDRESS	TELEPHONE	HYDROLOGIC AREAS SERVED
Utah Lake/Jordan River	1594 West North Temple, Ste. 220 PO Box 146300 SLC, UT 84114-6300	(801)538-7240	51, 53, 54, 55, 59, 57
Weber River/Western Utah	1594 West North Temple, Ste. 220 PO Box 146300 SLC, UT 84114-6300	(801)538-7240	15, 16, 17, 18, 31, 35
Northern (Logan Office)	1780 North Research Parkway, Suite 104 North Logan, UT 84341	(435)752-8755	11, 13, 21, 23, 25, 29
Eastern (Vernal Office)	318 North Vernal Avenue Vernal, Utah 84078	(435)247-1514	41, 43, 45, 47, 49
Southeastern (Price Office)	319 N. Carbonville Road PO Box 718 Price, UT 84501-0718	(435)613-3750	01, 05, 09, 90, 91, 92, 93, 94
Sevier River / Southern (Richfield Office)	2031 South Industrial Park Road Richfield, Utah 84701	(435)896-2557	61, 63, 65, 66,67,68, 95
Southwestern (Cedar City Office)	646 North Main Street P.O. Box 506 Cedar City, Utah 84721-0506	(435)586-4231	14, 19, 69, 71, 73, 75, 77, 81, 85, 89, 97

#### 11.4 SUBMITTING A REPORT OF WATER RIGHT CONVEYANCE

Once the preparer of a Report of Water Right Conveyance has completed all necessary forms and has assembled and properly organized all supporting documentation (conveyance documents, maps, narratives, etc.), the entire package may be submitted either by hand-delivery or by mail to any of the Regional Offices of the Division of Water Rights or directly to the main Division office in Salt Lake City with the appropriate filing fee.

Although due care will be taken to assure proper receipt and tracking of submitted reports, submitters are advised to keep a full photocopy record of all documents until assurance is given that the report has been received and found to be acceptably complete. Section 12, following, describes the review and acceptance process.

## **SECTION 12**

### **THE REVIEW AND ACCEPTANCE PROCESS**

#### **12.1 INTRODUCTION**

As required by Utah Code Ann. §73-1-10 (See Appendix A), the State Engineer has adopted administrative rules (See Appendix B) which set forth the information that must be contained in a Report of Water Right Conveyance and the manner by which the State Engineer's staff will process such reports. This section will provide some additional detail regarding that procedure. The practices and procedures described herein are adopted on an interim basis and will be subject to amendment as more experience is acquired.

#### **12.2 THE REPORT OF WATER RIGHT CONVEYANCE REVIEW AND ACCEPTANCE PROCESS**

The State Engineer's office provides standard forms that are to be acceptably completed before a Report of Water Right Conveyance will be accepted as "filed." It will be the preparers responsibility to submit the appropriate form(s) to document either a conveyance of a portion of a water right or of 100% of a water right. By Utah Admin. Code R655-3-4, copies of the reported conveyance documents, along with any maps compiled by the preparer to determine conveyance by appurtenance, must accompany the report. Section 10 of this manual details proper preparation of a Report of Water Right Conveyance. *Upon receipt of a Report of Water Right Conveyance the State Engineer shall assess if the report is acceptably complete in its form and substance.*

##### **12.2.1 Hand-Delivered or Mailed Reports**

If a Report of Water Right Conveyance is hand-delivered and/or mailed to the Division of Water Rights, the office staff will briefly review the report to ensure that the correct forms have been used and have been completed, and that the proper documentation is attached along with the appropriate filing fee. If the Report of Water Right Conveyance is missing any of this information it will not be considered acceptably complete and office staff will return the report along with the filing fee and an explanation of the deficiency.

If time permits, this initial review may be conducted in the presence of the submitting party and a verbal explanation of any deficiencies may be given. Otherwise, the review will occur as time allows and, if deficiencies are noted, the submitter will be contacted later, either in writing or otherwise. Incomplete or deficient reports will be returned to the submitter/certifying professional.

When an initial review of the Report of Water Right Conveyance shows the report to be satisfactorily complete, the Report of Water Right Conveyance will be promptly forwarded to the Salt Lake office of the State Engineer for a complete and final review.

### 12.3 ADDENDUMS REVIEW AND ACCEPTANCE PROCESS

When a recorded Deed and water right or land addendum is transmitted to the State Engineer by a County Recorder the State Engineer, under Utah Code Ann., Subsection 73-1-10(1)(d)(ii), will process the Water Rights Addendum as though it were a submitted Report of Water Right Conveyance.

If the State Engineer does not update water right ownership on records of the Division upon submittal of a Water Rights Addendum as described in Utah Admin. Code R655-3-3, the State Engineer shall provide written notice to the grantee at the address stated on the addendum of the reasons ownership was not updated. The water right owner will need to submit a report of water right conveyance as directed in Utah Code Ann., Subsection 73-1-10(3) and Utah Admin. Code R655-3-3.

### 12.4 AMENDMENTS TO STATE ENGINEER'S RECORDS

If it is determined that a problem exists in the Report of Water Right Conveyance during final review, the State Engineer's staff will return the report with an explanation of why it is not acceptably complete.

Amendments to the State Engineer's records will be based on Reports of Conveyance adjudged to be complete and accurate. However, such amendments do not constitute a guarantee nor assurance of complete and accurate title. If such assurance is desired, a qualified professional should be retained to conduct and certify a thorough opinion of title.

### 12.5 CONFLICTING REPORTS OF CONVEYANCE

If, at the time of filing a Report of Water Right Conveyance, there is a conflicting Report of Water Right Conveyance or other conflicting ownership information, the State Engineer's office will return the Report of Water Right Conveyance to the submitter. Its receipt will be noted on records of the State Engineer and all parties with evident conflicting claims to ownership will be notified, in writing or otherwise, as may be deemed most efficient. The State Engineer will take no further administrative action on a water right which is a subject of a conflict until the conflict is resolved. Resolution of the conflicting claims will be the responsibility of the parties claiming ownership, not of the State Engineer's office. Conflicted Holders may resolve the title conflict by filing documents that resolve the title question with the State Engineer. To be evaluated, any documents submitted, including court orders, must first be filed with the applicable County Recorder where the water right is diverted and used. Any resolution document, agreement or order between the Conflicted Holders must directly address the title conflict of record rather than appeal to State Engineer discretion in resolving the matter.

Nothing shall be construed to create a title conflict where a deed with precedence over subsequent deeds relied upon in a chain of title used to update State Engineer records is submitted in a Report of Water Right Conveyance. (See Utah Admin. Code R655-3-6).

## FREQUENTLY ASKED QUESTIONS

**When is an Affidavit of Identity required?** An affidavit of identity is required when there is a difference in the name or to clarify that a person (grantor/grantee) is also known as (aka) or formerly known as (fka) by another name.

**What is a Life Estate?** A life estate conveys upon an individual or individuals for his or her lifetime certain rights in property.

**Is a document required when there is an expiration of a Life Estate?** If the life estate is not clear in the conveyance documents, the State Engineer may require additional documents/information to set forth the intent of the party(s).

**When would a corrective deed be necessary?** A corrective deed is a deed used to fix errors in deeds that have already been recorded. A corrective deed may not create a new interest, instead it corrects the document relating to the prior transfer of interest. A corrective deed should refer to the error and the correction and should include the signatures of both the grantor and the grantee and recorded with the appropriate county recorder.

**Scrivener's affidavit or corrective deed concerning a water right?** Affidavits can only be effective if they clarify an ambiguity created on the original document. They cannot add to or take away from the effect of the original document. With respect to a water right, if it is recited incorrectly on the deed, a corrective deed will need to be done.

**If our records do not show joint tenancy, what is required?** Submit a deed that indicate the parties received the appurtenant property as joint tenants or recorded affidavit, with the appropriate county severing joint tenancy that identifies the appurtenant property and makes reference to the recorded conveyance documents.

**What is Probate?** A probate is the legal process of administering a person's estate after their death. An executor or personal representative is ordered by the courts in a probate. The courts will issue a "Letter of Testamentary" authorizing the executor/personal representative to execute conveyance documents on behalf of the estate.

**What is a Trust?** A trust may take the place of a will and avoid probate. It defines the wishes of the trustor for the property.

**What is a Deed of Trust?** A Deed of Trust creates a security interest in real property. The real property is held as a security for a loan between a borrower and a lender.

**How do I reserve a water right?** The water right needs to explicitly be reserved on the deed. See Section 6 for more information.

**What if there is a discrepancy on the Place of Use?** The regional office should be contacted for clarification of the place of use and/or if there is a discrepancy on the place of use (See Section 11).

**What is a water right?** The right to divert water from a particular source and put to beneficial use on an authorized parcel of land.

**What is not a water right?** Shares of stock in an irrigation/canal company. A right to the use of water just because you own the land adjacent to or over/under which the water flows is not a water right.

**What is not a water right conveyance?**

- 1) A claim to ownership by a method other than a conveyance.
- 2) Adverse use (73-3-1). The use or enjoying the use of water or land does not convey or create a water right.
- 3) A deed, which purports to convey a water right, not owned by the person granting the conveyance. In other words, ie., conveyance by appurtenance requires a unity of title in land and water at the time of the land conveyance.
- 4) An order decision or entry in the records of the State Engineer (except for assignments of pending applications).

**How do I obtain a title professional?** The Division of Water Rights maintains a list of title professionals on its website at: [www.waterrights.utah.gov](http://www.waterrights.utah.gov) under “Programs” then “Title Transfers.” You may also contact another professional, licensed in Utah, not listed on the Division's website as long as said professional is an attorney, engineer, a title insurance producer, or land surveyor.

**What does appurtenance have to do with water rights?** Utah law embraces the concept that when you convey real property you are also conveying your interest in whatever water rights are used on that land. In other words, the water rights are appurtenant to that land. It is intended that appurtenance be the default water right conveyance mechanism. However, by specific statements in conveyance documents (deeds) the water may be separated and conveyed separate from the land.

**How do you figure out what water rights have been conveyed?** By carefully following the chain of water and land conveyances recorded in the appropriate County Recorder’s office.

**Do I need to do a Report of Water Right Conveyance if I have done an addendum?** If the addendum has not been done correctly, a ROC may be required.

**Can I submit an addendum myself?** No, an addendum cannot be submitted without a recorded deed. The County Recorder, as required under Utah Code Ann. §§ 57-3-109 and 73-1-10, transmits a recorded deed with an attached land or water addendum to the State Engineer (See Section 10), (See Appendix A).

**Is the water right valid if the ownership is updated?** As per Utah Code Ann., Subsection 73-1-10(3)(d), “The filing and processing of a report of water right conveyance with the State Engineer is neither an adjudication of water right ownership nor an opinion as to title or validity of the water right.” (See Appendix A).

**Do I need to plot out the property on my deeds?** Yes, a map is required to depict the property described on the deed if updating by appurtenance (See Mapping Standards), (Appendix F).

**When can I expect my ownership to be updated?** Within receipt of the ROC the Division allows for a 90-day time frame to update ownership if the ROC is acceptably complete.

**What if my ROC is not acceptably complete?** If it is not acceptably complete, the ROC will be returned with an explanation. 90 days will be allowed to return the corrected ROC, without further fee.

**Procedures for processing the ROC?** Refer to Section 12 of the manual and checklist under Appendix G.

**When can I submit an ROC without a professional?** Refer to Utah Admin. Code R655-3-7 (See Appendix B).

**When do I need a professional?** If the ROC submitted includes deeds that do not recite the water right number specifically, then a professional will need to submit the ROC. (See Utah Code Ann., Subsections 73-1-10(3)(c)(i)), (See Appendix A).

**Can we submit deeds that have “Unofficial Copy” written on it, if you can read the deed?** No, “Unofficial” copies are unacceptable.

**Should I put the change application number on the water deed?** Yes, a change application number can be included in the water deed with the water right number.

**Are there any training videos?** Training videos can be found on the Division website at [www.waterrights.utah.gov](http://www.waterrights.utah.gov).

**Whom do I contact to find out if I have a water right?** Contact the Division of Water Rights, Public Inquiry at 801-538-7240 or any of the Regional Offices (See Section 11).

# APPENDIX A

**73-1-10. Conveyance of water rights -- Deed -- Exceptions -- Filing and recording of deed -- Report of water right conveyance.**

- (1) (a) A water right, whether evidenced by a decree, a certificate of appropriation, a diligence claim to the use of surface or underground water, or a water user's claim filed in general determination proceedings, shall be transferred by deed in substantially the same manner as is real estate.
- (b) The deed must be recorded in the office of the recorder of the county where the point of diversion of the water is located and in the county where the water is used.
- (c) A recorded deed of a water right shall from the time of its recording in the office of the County Recorder constitute notice of its contents to all persons.
- (d) (i) Beginning July 1, 2011, a deed under Subsection (1)(a) may include a water rights addendum as provided in Section 57-3-109.
- (ii) The State Engineer shall consider a water rights addendum that is recorded and forwarded to the State Engineer by a County Recorder, in accordance with Section 57-3-109, as a submitted report of water right conveyance under Subsection (3).
- (2) The right to the use of water evidenced by shares of stock in a corporation shall be transferred in accordance with the procedures applicable to securities set forth in Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities.
- (3) (a) To update water right ownership on the records of the State Engineer, a water right owner shall submit a report of water right conveyance to the State Engineer.
- (b) The report of water right conveyance shall be on forms provided by the State Engineer.
- (c) The report shall be prepared by:
  - (i) or prepared under the direction of and certified by, any of the following persons licensed in Utah:
    - (A) an attorney;
    - (B) a professional engineer;
    - (C) a title insurance producer; or
    - (D) a professional land surveyor; or
  - (ii) the water right owner as authorized by rule of the State Engineer.
- (d) The filing and processing of a report of water right conveyance with the State Engineer is neither an adjudication of water right ownership nor an opinion as to title or validity of the water right.
- (e) The State Engineer shall adopt rules that specify:
  - (i) the information required in a report of water right conveyance; and
  - (ii) the procedures for processing the reports.

**73-1-11. Appurtenant water rights pass to grantee of land -- Exceptions -- Conveyance of a portion of irrigated land -- Right to the use of water evidenced by shares of stock -- Appurtenant water rights -- Evidence -- Where appurtenant -- Partial conveyances of water and land.**

- (1) (a) A water right appurtenant to land shall pass to the grantee of the land unless the grantor:
- (i) specifically reserves the water right or any part of the water right in the land conveyance document;
  - (ii) conveys a part of the water right in the land conveyance document; or
  - (iii) conveys the water right in a separate conveyance document prior to or contemporaneously with the execution of the land conveyance document.
- (b) If a County Recorder records a document that conveys a water right appurtenant to land as described in Subsection (1)(a) and relies on the document to maintain a tract index described in Section 17-21-6, the State Engineer shall rely on the document as an effective conveyance of a water right appurtenant to land.
- (2) (a) If the water right has been exercised in irrigating different parcels of land at different times, it shall pass to the grantee of a parcel of land on which the water right was exercised next preceding the time the land conveyance was executed.
- (b) Subsection (2)(a) applies only to land conveyances executed before May 4, 1998.
- (3) In any conveyance, the grantee assumes the obligation for any unpaid assessment.
- (4) (a) The right to the use of water evidenced by shares of stock in a corporation is not a water right appurtenant to land.
- (b) On or after May 14, 2013, unless provided otherwise in a corporation's articles of incorporation or bylaws, the right to the use of water evidenced by shares of stock in a corporation shall transfer only as provided in Subsection 73-1-10(2).
- (5) (a) This Subsection (5) governs land conveyances executed on or after May 4, 1998, and has no retrospective operation.
- (b) For purposes of land conveyances only, a water right evidenced by any of the following documents is appurtenant to land:
- (i) a decree entered by a court;
  - (ii) a certificate issued under Section 73-3-17;
  - (iii) a diligence claim for surface or underground water filed pursuant to Section 73-5-13;
  - (iv) a water user's claim executed for general determination of water rights proceedings conducted pursuant to Title 73, Chapter 4, Determination of Water Rights, or pursuant to Section 73-3-16;
  - (v) an approval for an application to appropriate water issued under Section 73-3-10;

- (vi) an approval for an application to permanently change the place of use of water issued under Section 73-3-10; or
  - (vii) an approval for an application to exchange water issued under Section 73-3-20.
- (c) For purposes of land conveyances only, the land to which a water right is appurtenant is the authorized place of use of water as described in the:
- (i) decree;
  - (ii) certificate;
  - (iii) diligence claim;
  - (iv) water user's claim;
  - (v) approved application to appropriate water;
  - (vi) approved application to permanently change the place of use of water; or
  - (vii) approved exchange application.
- (d) If a grantor conveys part of the water right in a land conveyance document pursuant to Subsection (1)(b), the portion of the water right not conveyed is presumed to be reserved by the grantor.
- (e) If the land conveyed constitutes only a portion of the authorized place of use for the water right, the amount of the appurtenant water right that passes to the grantee shall be proportionate to the conveyed portion of the authorized place of use.
- (6) Beginning July 1, 2011, a deed conveying fee simple title to land may include a water rights addendum as provided in Section 57-3-109.

**73-3-2. Application for right to use unappropriated public water -- Necessity -- Form -- Contents -- Validation of prior applications by state or United States or officer or agency thereof.**

(1) (a) In order to acquire the right to use any unappropriated public water in this state, any person who is a citizen of the United States, or who has filed his declaration of intention to become a citizen as required by the naturalization laws, or any association of citizens or declarants, or any corporation, or the state of Utah by the directors of the divisions of travel development, business and economic development, wildlife resources, and state lands and forestry, or the executive director of the Department of Transportation for the use and benefit of the public, or the United States of America shall make an application in a form prescribed by the State Engineer before commencing the construction, enlargement, extension, or structural alteration of any ditch, canal, well, tunnel, or other distributing works, or performing similar work tending to acquire such rights or appropriation, or enlargement of an existing right or appropriation.

(b) The application shall be upon a form to be furnished by the State Engineer and shall set forth:

- (i) the name and post office address of the person, corporation, or association making the application;
- (ii) the nature of the proposed use for which the appropriation is intended;
- (iii) the quantity of water in acre-feet or the flow of water in second-feet to be appropriated;
- (iv) the time during which it is to be used each year;
- (v) the name of the stream or other source from which the water is to be diverted;
- (vi) the place on the stream or source where the water is to be diverted and the nature of the diverting works;
- (vii) the dimensions, grade, shape, and nature of the proposed diverting channel; and
- (viii) other facts that clearly define the full purpose of the proposed appropriation.

(2) (a) In addition to the information required in Subsection (1)(b), if the proposed use is for irrigation, the application shall show:

- (i) the legal subdivisions of the land proposed to be irrigated, with the total acreage thereof; and
- (ii) the character of the soil.

(b) In addition to the information required in Subsection (1)(b), if the proposed use is for developing power, the application shall show:

- (i) the number, size, and kind of water wheels to be employed and the head under which each wheel is to be operated;
- (ii) the amount of power to be produced;
- (iii) the purposes for which and the places where it is to be used; and
- (iv) the point where the water is to be returned to the natural stream or source.

(c) In addition to the information required in Subsection (1)(b), if the proposed use is for milling or mining, the application shall show:

- (i) the name of the mill and its location or the name of the mine and the mining district in which it is situated;
- (ii) its nature; and
- (iii) the place where the water is to be returned to the natural stream or source.

- (d) (i) The point of diversion and point of return of the water shall be designated with reference to the United States land survey corners, mineral monuments or permanent federal triangulation or traverse monuments, when either the point of diversion or the point of return is situated within six miles of the corners and monuments.
  - (ii) If the point of diversion or point of return is located in unsurveyed territory, the point may be designated with reference to a permanent, prominent natural object.
  - (iii) The storage of water by means of a reservoir shall be regarded as a diversion, and the point of diversion in those cases is the point where the longitudinal axis of the dam crosses the center of the stream bed.
  - (iv) The point where released storage water is taken from the stream shall be designated as the point of rediversion.
  - (v) The lands to be inundated by any reservoir shall be described as nearly as may be, and by government subdivision if upon surveyed land. The height of the dam, the capacity of the reservoir, and the area of the surface when the reservoir is filled shall be given.
  - (vi) If the water is to be stored in an underground area or basin, the applicant shall designate, with reference to the nearest United States land survey corner if situated within six miles of it, the point of area of intake, the location of the underground area or basin, and the points of collection.
- (e) Applications for the appropriation of water filed prior to the enactment of this title, by the United States of America, or any officer or agency of it, or the state of Utah, or any officer or agency of it, are validated, subject to any action by the State Engineer.

### **73-3-3. Changes to a water right.**

(1) For purposes of this section:

(a) "Change" means a change to the:

- (i) point of diversion;
- (ii) place of use;
- (iii) period of use;
- (iv) nature of use; or
- (v) storage of water.

(b) "Fixed time change" means a change for a fixed period of time exceeding one year and not exceeding 10 years.

(c) "Permanent change" means a change, for an indefinite period of time.

(d) "Person entitled to the use of water" means:

- (i) the holder of an approved but unperfected application to appropriate water;
- (ii) the record owner of a perfected water right;
- (iii) a person who has written authorization from a person described in Subsection (1)(d)(i) or (ii) to file a change application on that person's behalf; or
- (iv) a shareholder in a water company who is authorized to file a change application in accordance with Section 73-3-3.5.

(e) (i) "Quantity impairment" means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application, including:

- (A) diminishing the quantity of water in the source of supply for the existing right;
- (B) a change in the timing of availability of water from the source of supply for the existing right; or
- (C) enlarging the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use.

(ii) "Quantity impairment" does not mean a decrease in the static level of water in an underground basin or aquifer that would result from an action proposed to be taken in a change application, if the volume of water necessary to satisfy an existing right otherwise remains reasonably available.

(f) "Split season change" means a change when the holder of a perfected right grants to a water user the right to make sequential use of a portion of the water right.

(g) "Temporary change" means a change for a period of time, not exceeding one year.

(2) (a) A person who proposes to file a change application may request consultation with the State Engineer, or the State Engineer's designee, before filing the application to review the requirements of the change application process, discuss potential issues related to the change, and provide the applicant with information.

(b) Statements made and information presented in the consultation are not binding on the applicant or the State Engineer.

(c) The consultation described in Subsection (2)(a) may occur in the State Engineer's regional office for the region where the proposed change would occur.

(3) (a) A person entitled to the use of water may make a change to an existing right to use water, including a right involved in a general determination of rights or other suit, if:

- (i) the person makes the change in accordance with this section;

- (ii) except as provided by Section 73-3-30, the change does not impair an existing right without just compensation or adequate mitigation; and
  - (iii) the State Engineer approves the change application, consistent with Section 73-3-8.
- (b) A change application on a federal reclamation project water right shall be signed by:
  - (i) the local water users organization that is contractually responsible for:
    - (A) the operation and maintenance of the project; or
    - (B) the repayment of project costs; and
  - (ii) the record owner of the water right.
- (c) A change application on a United States Indian Irrigation Service water right that is serving the needs of a township or municipality shall be signed by:
  - (i) the local public water supplier that is responsible for the operation and maintenance of the public water supply system; and
  - (ii) the record owner of the water right.
- (4) (a) Before making a change, a person entitled to the use of water shall submit a change application upon forms furnished by the State Engineer.
- (b) The application described in Subsection (4)(a) shall include:
  - (i) the applicant's name;
  - (ii) the water right description, including the water right number;
  - (iii) the water quantity;
  - (iv) the stream or water source;
  - (v) if applicable, the point on the stream or water source where the water is diverted;
  - (vi) if applicable, the point to which it is proposed to change the diversion of the water;
  - (vii) the place, nature, period, and extent of the currently approved use;
  - (viii) the place, nature, period, and extent of the proposed use;
  - (ix) if the change applicant is submitting a change application in accordance with Section 73-3-3.5, the information required by Section 73-3-3.5;
  - (x) any proposed change to the storage of water; and
  - (xi) any other information that the State Engineer requires.
- (c) A shareholder in a water company who seeks to make a change to a water right to which the water company is the record owner shall file a change application in accordance with Section 73-3-3.5.

(5) In a proceeding before the State Engineer, the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change can be made in compliance with this section and Section 73-3-8, including evidence:

(a) that the change will not cause a specific existing right to experience quantity impairment; or

(b) if applicable, rebutting the presumption of quantity impairment described in Subsection 73-3-8(6)(c).

(6) A change of an approved application to appropriate water does not:

(a) affect the priority of the original application to appropriate water; or

(b) extend the time period within which the construction of work is to begin or be completed.

(7) Any person who makes a change without first filing and obtaining approval of a change application providing for the change:

(a) obtains no right by the change;

(b) is guilty of an offense punishable under Section 73-2-27 if the change is made knowingly or intentionally; and

(c) shall comply with the change application process.

(8) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) A replacement well must be drilled in accordance with the requirements of Section 73-3-28.

**73-3-20. Right to divert appropriated waters into natural streams -- Requirements -- Storage in reservoir -- Information required by State Engineer -- Lapse of application.**

(1) Upon application in writing and approval of the State Engineer, any appropriated water may, for the purpose of preventing waste and facilitating distribution, be turned from the channel of any stream or any lake or other body of water, into the channel of any natural stream or natural body of water or into a reservoir constructed across the bed of any natural stream, and commingled with its waters, and a like quantity less the quantity lost by evaporation and seepage may be taken out, either above or below the point where emptied into the stream, body of water or reservoir. In so doing, the original water in such stream, body of water, or reservoir must not be deteriorated in quality or diminished in quantity for the purpose used, and the additional water turned in shall bear its share of the expense of maintenance of such reservoir and an equitable proportion of the cost of the reservoir site and its construction. Any person having stored that person's appropriated water in a reservoir for a beneficial purpose shall be permitted to withdraw

the water at the times and in the quantities as the person's necessities may require if the withdrawal does not interfere with the rights of others.

(2) (a) The State Engineer may require an owner of an approved exchange application to provide:

- (i) information about the diverting works constructed;
- (ii) information about the extent to which the development under the exchange has occurred; or
- (iii) other information the State Engineer considers necessary to:
  - (A) ensure that the exchange is taking place;
  - (B) establish that the owner still has a legal interest in the underlying water right used as the basis for the exchange; or
  - (C) determine the quantity of water being exchanged.

(b) The owner of an exchange application shall provide the information requested by the State Engineer within 60 days after the day on which the owner received the notification from the State Engineer.

(3) The State Engineer may lapse an approved exchange application described in Subsection (1) if:

- (a) the applicant has lost a legal interest in the underlying right used to facilitate the exchange;
- (b) the exchange can no longer be carried out as stated in the application;
- (c) the applicant has not complied with the conditions established in approving the exchange; or
- (d) the applicant fails to provide the information requested by the State Engineer under Subsection (2).

(4) (a) Notwithstanding Section 73-3-18, the State Engineer may reinstate an exchange application that was lapsed by the State Engineer under Subsection (3), if:

- (i) the applicant files with the State Engineer a written request to reinstate the exchange application;
- (ii) the exchange application is for a small amount of water, as defined in Section 73-3-5.6;
- (iii) the applicant demonstrates that, before the exchange application lapsed, the applicant or the applicant's predecessor in interest, in accordance with the exchange application:
  - (A) constructed and occupied a residence; and
  - (B) beneficially used the water at the residence; and

(iv) the applicant demonstrates that none of the conditions described in Subsection (3) for lapsing an approved exchange application still exist.

(b) The priority of an exchange application reinstated under this section shall be the day on which the applicant files a request to reinstate an exchange application that was lapsed by the State Engineer.

### **57-3-109. Water rights addenda.**

(1) As used in this section:

(a) "Applicable deed" means a deed executed on or after July 1, 2011:

- (i) conveying fee simple title to land; or
- (ii) conveying title to water rights without conveying title to land.

(b) "Water rights addendum" means a written document that:

- (i) is an addendum to an applicable deed;
- (ii) is in a form approved by the Legislature in a joint resolution; and
- (iii) (A) identifies and describes the water rights transferred under an applicable deed; or  
(B) states that no water rights are transferred under an applicable deed.

(2) Beginning July 1, 2011, a person submitting an applicable deed to a County Recorder's office for recording may also submit a water rights addendum as an addendum to the applicable deed.

(3) (a) A grantor shall complete and sign a water rights addendum submitted under Subsection (2).

(b) (i) A grantee shall sign a water rights addendum to acknowledge receipt of a copy of the water rights addendum.

(ii) A grantee's signature on a water rights addendum may be by facsimile or electronic means.

(4) The State Engineer shall use and make available to the public the water rights addendum form approved by the Legislature.

(5) Upon recording an applicable deed with a water rights addendum, a County Recorder shall transmit a paper or electronic copy of the deed and water rights addendum to the State Engineer.

### **73-1-12. Failure to record -- Effect.**

Every deed of a water right which shall not be recorded as provided in this title shall be void as against any subsequent purchaser, in good faith and for a valuable consideration, of the same water right, or any portion thereof, where his own deed shall be first duly recorded.

### **57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

- (1) (a) (i) Beginning on May 5, 1997, every ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.
    - (ii) Except as provided in Subsection (1)(a)(iii), joint tenancy may be established between two or more people.
    - (iii) Joint tenancy may not be established between a person and an entity or organization, including:
      - (A) a corporation;
      - (B) a trustee of a trust; or
      - (C) a partnership.
    - (iv) Joint tenancy may not be established between an entity or organization and another entity or organization.
  - (b) Every ownership interest in real estate that does not qualify for the joint tenancy presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common interest unless expressly declared in the grant to be otherwise.
- (2) (a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import means a joint tenancy.
    - (b)(i) Use of words "tenancy in common" or "with no rights of survivorship" or "undivided interest" or words of similar import declare a tenancy in common.
    - (ii) Use of words "and/or" in the context of an ownership interest declare a tenancy in common unless accompanied by joint tenancy language described in Subsection (2)(a), which creates a joint tenancy.
- (3) A person who owns real property creates a joint tenancy in himself or herself and another or others:

- (a) by making a transfer to himself or herself and another or others as joint tenants by use of the words as provided in Subsection (2)(a); or
  - (b) by conveying to another person or persons an interest in land in which an interest is retained by the grantor and by declaring the creation of a joint tenancy by use of the words as provided in Subsection (2)(a).
- (4) In all cases, the interest of joint tenants shall be equal and undivided.
- (5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide conveyance of the joint tenant's interest in property held in joint tenancy to himself or herself or another, the joint tenancy is severed and converted into a tenancy in common.
- (b) If there is more than one joint tenant remaining after a joint tenant severs a joint tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in joint tenancy.
- (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no retrospective operation and shall govern instruments executed and recorded on or after May 5, 1997.
- (7) Tenants by the entirety are considered to be joint tenants.
- (8) Tenants holding title as community property are considered to be joint tenants.

**57-1-10. After-acquired title passes.**

- (1) If any person conveys any real estate by conveyance purporting to convey the real estate in fee simple absolute, and at the time of the conveyance the person does not have the legal estate in the real estate, but afterwards acquires the legal estate:
- (a) the legal estate subsequently acquired immediately passes to the grantee, the grantee's heirs, successors, or assigns; and
  - (b) the conveyance is as valid as if the legal estate had been in the grantor at the time of the conveyance.
- (2) Subsection (1) does not apply to a conveyance by quitclaim deed.

**57-1-12. Form of warranty deed -- Effect.**

- (1) Conveyances of land may be substantially in the following form:  
WARRANTY DEED

\_\_\_\_ (here insert name), grantor, of \_\_\_\_ (insert place of residence), hereby conveys and warrants to \_\_\_\_ (insert name), grantee, of \_\_\_\_ (insert place of residence), for the sum of \_\_\_\_ dollars, the following described tract \_\_\_\_ of land in \_\_\_\_ County, Utah, to wit: (here describe the premises).

Witness the hand of said grantor this \_\_\_\_ (month\day\year).

- (2) A warranty deed when executed as required by law shall have the effect of a conveyance in fee simple to the grantee, the grantee's heirs, and assigns:
- (a) of the premises named in the warranty deed;

- (b) of all the appurtenances, rights, and privileges belonging to the premises named in the warranty deed; and
- (c) with covenants from the grantor, the grantor's heirs, and personal representatives, that:
  - (i) the grantor lawfully owns fee simple title to and has the right to immediate possession of the premises;
  - (ii) the grantor has good right to convey the premises;
  - (iii) the grantor guarantees the grantee, the grantee's heirs, and assigns in the quiet possession of the premises;
  - (iv) the premises are free from all encumbrances; and
  - (v) the grantor, the grantor's heirs, and personal representatives will forever warrant and defend the title of the premises in the grantee, the grantee's heirs, and assigns against all lawful claims whatsoever.
- (3) Any exception to the covenants described in Subsection (2)(c) may be briefly inserted in the warranty deed following the description of the land.

**57-1-13. Form of quitclaim deed -- Effect.**

(1) A conveyance of land may also be substantially in the following form:

**"QUITCLAIM DEED**

\_\_\_\_ (here insert name), grantor, of \_\_\_\_ (insert place of residence), hereby quitclaims to \_\_\_\_ (insert name), grantee, of \_\_\_\_ (here insert place of residence), for the sum of \_\_\_\_ dollars, the following described tract \_\_\_\_ of land in \_\_\_\_ County, Utah, to wit: (here describe the premises).

Witness the hand of said grantor this \_\_\_\_\_ (month\day\year).

A quitclaim deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described and all rights, privileges, and appurtenances thereunto belonging, at the date of the conveyance."

(2) A boundary line agreement operating as a quitclaim deed shall meet the requirements described in Section 57-1-45

# APPENDIX B

Rule Utah Admin. Code R655-3. Reports of Water Rights Conveyance.

Utah Admin. Code 655-3-1. Scope and Purpose.

These rules are issued pursuant to Utah Code Ann. § 73-1-10 and Subsection 73-2-1(4)(a) which provides that the State Engineer shall adopt rules that specify when a water right owner is authorized to prepare a Report of Water Right Conveyance to the State Engineer; the kinds of information required in such reports; and the procedures for processing such reports.

Utah Admin. Code R655-3-2. Definitions.

APPURTENANCE - A right or improvement to a property that passes with the property upon the transfer of the property. As applied to water rights, it is as described in Utah Code Ann. § 73-1-11.

APPROPRIATION - an application seeking to appropriate water pursuant to Utah Code Ann. § 73-3-2.

BENEFICIAL USE - the basis, the measure and the limit of a water right. It is the specific use(s) authorized under a water right expressed in terms of the purpose(s) to which the water may be applied and the quantity of that purpose. For example, in the case of irrigation, the beneficial use is expressed as the number of acres that may be irrigated (e.g. 11.22 acres).

CHAIN OF TITLE - A series of deeds or other properly filed and recorded documents which demonstrate the transfer of a water right, a portion of a water right, or land with appurtenant water rights. Deeds establishing a chain of title begin with the owner listed on records of the Division of Water Rights as grantor of the first deed through a chronological succession of transfer documents where the right is ultimately conveyed to the grantee listed as new owner on the Report of Water Right Conveyance.

CHANGE APPLICATION - an application authorized to be made under Utah Code Ann. § 73-3-3 to change the point of diversion, place of use, nature of use, period of use or storage of a water right.

CONFLICTED HOLDER - a person or entity claiming ownership of all or a portion of a water right that conflicts with the ownership claim of another person or entity claiming ownership of the same right or portion in question. Conflicted holders may also include title holders whose title is not directly disputed, but is the part-owner of a right where a title question exists, and to resolve the question, the State Engineer deems the holder should be involved.

DIVERSION LIMIT - the total volume of water in acre-feet or the flow rate in cubic feet per second which may be diverted as allowed by the water right to supply the needs of the beneficial uses authorized by the water right.

DIVISION - the Utah Division of Water Rights within the Department of Natural Resources.

EXCHANGE APPLICATION - as authorized under Utah Code Ann. § 73-3-20, an application to allow water from one source to be exchanged for water from another source. Exchanges are

conditional rights that do not modify the underlying rights (right on which the exchange is based). The water may be exchanged to the extent it is available and not used under the underlying right. For the purpose of updating title, an approved Exchange Application is appurtenant to land and transfers as other water right interests.

PLACE OF USE - the specific acreage where water under a water right may be placed to beneficial use as described on the records of the State Engineer or a decree.

PROFESSIONAL - for the purposes of this rule, a person authorized to submit a Report of Water Right Conveyance as specified in Utah Code Ann. § 73-1-10. A professional must be licensed in Utah as an attorney, a professional engineer, a title insurance producer, or a professional land surveyor.

REPORT OF WATER RIGHT CONVEYANCE (ROC) - a report of water right conveyance to the State Engineer as required by Section 73-1-10.

SHARE STATEMENT - A water right file created on State Engineer records for purposes of administration in instances where the owner of shares of stock in a water company is authorized under statute to file an application (nonuse or change application) based on stock ownership. Water rights based on share statements are a conditional right. A water right change application based on shares of stock is appurtenant to the land where it is used and transfers as other interests in water rights. Shares of Stock do not transfer under rules of other rights to use water but transfer as securities as set forth in Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities.

SOLE SUPPLY - means the amount of Beneficial Use allowed under a particular water right when used alone and separate from all Supplemental Rights. If a water right is assigned to more than one Water Use Group, the Sole Supply of the water right is the sum of its Beneficial Use Amounts.

SUPPLEMENTAL GROUP - Also referred to as a Water Use Group, means one or more water rights listed together and assigned a unique number in the records of the State Engineer as being applied to a common Beneficial Use. The unique number referred to is shown on the Division's computer database as Supplemental Group No.

WATER RIGHT NUMBER - a unique file number assigned by the Division beginning with a two digit prefix associated with a specific geographic area designated by the Division, followed by a dash followed by another number to establish a specific number for the administrative functions of the Division. (e.g. 43-3231)

WATER RIGHTS ADDENDUM - an addendum to a deed clarifying the water rights conveyed by the deed pursuant to Section 73-1-10(1)(d)(i) and 73-1-11(6). Addendums are recorded with the deed it accompanies at the County Recorder's Office and are forwarded by the County Recorder to the State Engineer pursuant to Utah Code Ann. § 57-3-109.

R655-3-3. When a Water Rights Addendum Acts as a Report of Water Right Conveyance.

3.1 When a recorded Deed and water right or land addendum is transmitted to the State Engineer by a County Recorder, as required by Utah Code Ann. § 57-3-109, the State Engineer under Utah Code Ann., Subsection 73-1-10(1)(d)(ii) will process the Water Rights Addendum as though it were a submitted Report of Water Right Conveyance.

3.2 Water Right Addendums submitted in conformance with this rule shall be processed by the State Engineer and ownership updated on water right records of the Division if:

3.2.1 The grantor listed on the deed and addendum is the owner as listed on water right records of the Division;

3.2.2 The Water Rights Addendum document is properly completed as instructed on the form; and

3.2.3 The addendum is signed by all grantors and grantees on the deed.

3.3 If the State Engineer does not update water right ownership on records of the Division upon submittal of a Water Rights Addendum as described in this rule, the State Engineer shall provide written notice to the grantee at the address stated on the addendum of the reasons ownership was not updated.

3.4 If the state engineer does not update water right ownership on records of the Division upon submittal of a Water Right Addendum as described in this rule, a water right owner shall submit a report of water right conveyance as directed in Utah Code Ann., Subsection 73-1-10(3) and these rules.

Utah Admin. Code R655-3-4. Content of the Report of Water Right Conveyance.

4.1 A Report of Water Right Conveyance consists of:

4.1.1 A form provided by the state engineer which must be completed by the submitter;

4.1.2 Sufficient documentation presented as copies of properly recorded or authenticated documents to demonstrate the Chain of Title connecting the owner as shown on the Division's water right records to the person currently claiming ownership of all or a portion of the water right; and

4.1.3 Maps conforming to Utah Admin. Code R655-3-5 when conveyance by Appurtenance to land is asserted in the report of conveyance.

4.1.4 Additional information in the form of affidavits, opinions, and explanations if deemed necessary by the state engineer to process the ROC.

4.1.5 A fee paid to the State Engineer to process the Report of Water Right Conveyance pursuant to Utah Code Ann., Subsection 73-2-14(1)(q).

4.2 The content of a Report of Water Right Conveyance form is as follows:

4.2.1 A single specified water right number to which the report pertains. The ownership record of the Division for this water right number is the only record which will be updated when the ROC is deemed acceptably complete.

4.2.2 A summary of the documents relied upon to establish a Chain of Title including:

4.2.2.1 The type of conveyance document;

4.2.2.2 Recording information on a deed including the date it was signed and recorded, and the Recorder's entry number;

4.2.2.3 The grantor name(s) as it appears on the conveyance document;

4.2.2.4 The grantee names exactly as they appear on the conveyance document;

4.2.2.5 Any reservations or special conditions of conveyance.

4.2.2.6 If a portion of the owner's interest in a water right is conveyed, the "Portion" Report of Water Right Conveyance form must be used which additionally requires:

4.2.2.6.1 The quantity of each beneficial use conveyed.

4.2.2.6.2 If applicable, the quantity of use on a change application that was conveyed.

4.2.2.6.3 The diversion limit if applicable.

4.2.3 The number of any change application to which the report also pertains.

4.2.4 The mailing address of all new owner(s) as identified in the Chain of Title as the mailing address is to be shown on records of the state engineer.

4.2.5 A signed certification of the owner if the ROC is submitted by an individual without a professional certification attesting that the information contained in the ROC is true and accurate.

4.2.6 A signed certification by a Professional unless submittal by a Professional is exempted in these rules. The certification shall state: "The professional was retained by an owner of the water right to prepare or supervise the preparation of the Report of Water Right Conveyance; that the report is true and accurate to the best of the preparer's knowledge; that an appropriate search of County Recorder records has been made and that the attached documents evidence the ownership interest of the grantee." The certification must include the professional's name, profession, license number, mailing address and phone number.

4.3 Copies of deeds submitted as supporting documentation must be properly recorded in the county where water is diverted and, if different, the county where the water is used. The recording information must appear on deeds submitted.

4.4 A water right deed conveys only the water right or portion thereof expressly identified in the deed.

4.5 A document relied upon by a County Recorder's office to maintain a tract index for land with an appurtenant water right will be accepted as a conveyance document consistent with Utah Code Ann., Subsection 73-1-11(1)(b). Documents submitted must include: a chain of title from the person identified on the State Engineer's records as owning the water right to the person shown on the County Recorder's records as owning the property to which the water right is appurtenant; a copy of the tract index from the County Recorder; and/or an affidavit endorsed by the Report of Water Right Conveyance professional affirming that the water right has not been severed from the land but remains appurtenant to the property.

4.6 If an interest in a water right has been segregated from another water right, a deed recorded subsequent to the segregation must show the currently assigned water right number for the segregated water right.

4.7 The document required to support the change of the name of a corporation is a certificate of name change, or other similar document, stamped by the Utah Department of Commerce, or by the appropriate agency in the State in which the corporation is incorporated, accompanying the Report of Water Right Conveyance.

4.8 A copy of a marriage license evidences the change of name of an individual specified in the license.

4.9 A copy of a decree of a court of competent jurisdiction evidences the change of name of an individual as declared in the decree.

4.10 A copy of a death certificate evidences the dissolution of joint tenancy in favor of the surviving party (removal of a joint tenant as an owner on Division records).

4.11 A properly executed affidavit by an individual evidence aliases by which the individual may be named in other documents.

4.12 In the case of poor copies, improved copies may be requested.

4.13 Supporting documents must be arranged in ascending chronological order (oldest to youngest) by recording date.

Utah Admin. Code R655-3-5. Maps and Mapping Standards for Reports of Conveyance.

5.1 Maps are required when a water right is conveyed as an appurtenance to property. A map is a graphical depiction of the water right place of use overlain by the metes and bounds description of the property conveyed in a land deed demonstrating graphically and to scale the portion of the water right which is appurtenant to the property described.

5.2 Maps shall meet the following standards:

5.2.1 Maps must be legible.

5.2.2 Maps may be 8 1/2 x 11 or 8 1/2 x 14 inches in size.

5.2.3 Maps are to state the water right number conveyed.

5.2.4 Maps are to include a north arrow.

5.2.5 Maps are to be drawn to scale with a graphical scale bar contained thereon.

5.2.6 Maps are to include appropriate Public Land Survey lines and labeled with section(s), township, range, and base and meridian.

5.2.7 At least one section corner location or appropriate survey tie is to be shown on the map and labeled as such.

5.2.8 Maps are to include and depict the entire parcel described as conveyed on the land deed and the actual acreage of the parcel.

5.2.9 Maps are to show by hatching or shading the authorized place of use of the water right which is appurtenant to land described in a land deed.

5.2.10 Maps are to show any reservations from the property including property described by language such as "less and excepting" in the overall property description.

5.2.11 Each deed submitted must have a map accompanying it unless the property description in every deed is identical.

5.2.12 Maps should include a legend containing an identifier for the deed mapped, parcel numbers, subdivision name and lot numbers, and any other information needed to connect the map to the deed in a clear and consistent manner.

5.3 The accuracy and completeness of maps are the responsibility of the professional preparing the Report of Water Right Conveyance. Additional information may be required by the Division of Water Rights to adequately identify the property to which water rights are appurtenant or the place of use of a portion of a water right being conveyed.

Utah Admin. Code R655-3-6. Procedures for Processing a Report of Water Right Conveyance.

6.1 Upon receipt of a Report of Water Right Conveyance, the state engineer shall assess if the Report of Water Right Conveyance is acceptably completed in form and substance.

6.2 If a Report of Water Right Conveyance is acceptably complete, it will be processed and Division records updated to reflect ownership of the water right in accordance with the Report. Written notice will be sent to the new owner identified in the Report of Water Right Conveyance.

6.3 If a Report of Water Right Conveyance is not acceptably complete, the ROC will be returned to the submitting party with an explanation of why it is not considered acceptably complete.

6.4 If the fee for the ROC has been processed by the state engineer prior to the return of a ROC to the submitting party, the state engineer will place a copy of the ROC on the water right file but will not update ownership records until the ROC is acceptably complete.

The submitting party will be allowed 90 days to return a corrected or completed ROC for processing without further fee.

6.5 The accuracy and completeness of the Report is the sole responsibility of the submitter.

6.6 A Report of Water Right Conveyance which conflicts with another Report on the same water right will not be processed and will be returned to the submitter. Its receipt will be noted on records of the state engineer and the disputing parties notified. The state engineer will take no further administrative action on a water right which is the subject of a conflict until the conflict is resolved.

6.6.1 Conflicted Holders may resolve the title conflict by filing documents that resolve the title question with the State Engineer. To be evaluated, any documents submitted, including court orders, must first be filed with the applicable County Recorder where the water right is diverted and used. Any resolution document, agreement or order between the Conflicted Holders must directly address the title conflict of record rather than appeal to state engineer discretion in resolving the matter.

6.6.2 Nothing in this Section 6.6 shall be construed to create a title conflict where a deed with precedence over subsequent deeds relied upon in a chain of title used to update state engineer records is submitted in a Report of Water Right Conveyance. However, the deed holder assumes ownership of the water right on state engineer records subject to all administrative actions which have occurred at the time the ROC is submitted and individual ROCs must be filed for each segregated portion of the water right affected by the conveyance documents.

Utah Admin. Code R655-3-7. When a Water Right Owner Is Authorized to Prepare a Report of Water Right Conveyance Without a Professional.

7.1 A Report of Water Right Conveyance may be submitted by the owner of a water right without the certification of a professional only in the following situations:

7.1.1 When the deed or deeds convey 100% of a water right and state the water right number on the deed.

7.1.2 When the deed or deeds convey an owner's interest in a portion of a water right, all owners of that interest of the right shall sign the deed as grantors, the deed conveys the portion by stating the water right number on the deed, and the sole supply has been established for the portion conveyed.

7.1.3 When the Report of Water Right Conveyance is submitted to change the name of an owner but does not report the conveyance of an interest in the water right to a new party.

7.1.4 When the Report of Water Right Conveyance is submitted to remove the name of a joint tenant due to death.

Date of Enactment or Last Substantive Amendment  
October 12, 2016

# APPENDIX C

# REPORT OF WATER RIGHT CONVEYANCE

\$40 Fee Rec'd by \_\_\_\_\_

Receipt # \_\_\_\_\_

USE THIS CONVEYANCE REPORT FORM WHEN 100% OF THE WATER RIGHT IS CONVEYED.

WATER RIGHT # \_\_\_\_\_ EXCHANGE # \_\_\_\_\_

Pending Change Applications \_\_\_\_\_

Non-use Expiration Date \_\_\_\_\_

## SECTION A. CONVEYANCE SUMMARY

If no water right number is mentioned on deed, is a map attached? Yes \_\_\_\_ No \_\_\_\_

1. Assignment \_\_\_\_ Warranty Deed \_\_\_\_ Quitclaim Deed \_\_\_\_ Sheriff's Deed \_\_\_\_ Trustee's Deed \_\_\_\_ Water Deed \_\_\_\_ Trust Deed \_\_\_\_  
Other : \_\_\_\_\_

2. Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_ Date Recorded \_\_\_\_/\_\_\_\_/\_\_\_\_  
Book \_\_\_\_\_ Page # \_\_\_\_\_ Entry # \_\_\_\_\_

3. Grantor \_\_\_\_\_

4. Grantee(s) \_\_\_\_\_

5. Mailing Address : \_\_\_\_\_

6. E-mail Address (to be notified of ownership updates) : \_\_\_\_\_

7. Special Conditions/Information of Conveyance \_\_\_\_\_

If no water right number is mentioned on deed, is a map attached? Yes \_\_\_\_ No \_\_\_\_

1. Assignment \_\_\_\_ Warranty Deed \_\_\_\_ Quitclaim Deed \_\_\_\_ Sheriff's Deed \_\_\_\_ Trustee's Deed \_\_\_\_ Water Deed \_\_\_\_ Trust Deed \_\_\_\_  
Other : \_\_\_\_\_

2. Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_ Date Recorded \_\_\_\_/\_\_\_\_/\_\_\_\_  
Book \_\_\_\_\_ Page # \_\_\_\_\_ Entry # \_\_\_\_\_

3. Grantor \_\_\_\_\_

4. Grantee(s) \_\_\_\_\_

5. Mailing Address : \_\_\_\_\_

6. E-mail Address (to be notified of ownership updates) : \_\_\_\_\_

7. Special Conditions/Information of Conveyance \_\_\_\_\_

If no water right number is mentioned on deed, is a map attached? Yes \_\_\_\_ No \_\_\_\_

1. Assignment \_\_\_\_ Warranty Deed \_\_\_\_ Quitclaim Deed \_\_\_\_ Sheriff's Deed \_\_\_\_ Trustee's Deed \_\_\_\_ Water Deed \_\_\_\_ Trust Deed \_\_\_\_  
Other : \_\_\_\_\_

2. Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_ Date Recorded \_\_\_\_/\_\_\_\_/\_\_\_\_  
Book \_\_\_\_\_ Page # \_\_\_\_\_ Entry # \_\_\_\_\_

3. Grantor \_\_\_\_\_

4. Grantee(s) \_\_\_\_\_

5. Mailing Address : \_\_\_\_\_

6. E-mail Address (to be notified of ownership updates) : \_\_\_\_\_

7. Special Conditions/Information of Conveyance \_\_\_\_\_

# REPORT OF WATER RIGHT CONVEYANCE

WATER RIGHT # \_\_\_\_\_

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## SECTION B. CERTIFICATION

I, \_\_\_\_\_, certify that I am authorized by Administrative Rule R655-3-7 to complete this report, and that the information contained herein or attached hereto is true and accurate to the best of my knowledge.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

## FOR LICENSED PROFESSIONALS ONLY

I, \_\_\_\_\_, certify that I am licensed as \_\_\_\_\_ in the State of Utah, that my license number is \_\_\_\_\_, that I was retained by an owner of the water right to prepare or supervise the preparation of the Report of Conveyance; that the report is true and accurate to the best of the preparer's knowledge; that an appropriate search of County Records records has been made and that the attached documents evidence the ownership interest of the grantee.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

Address: \_\_\_\_\_

This report is not a title opinion based on the title search made. It does not warrant or guarantee title to water rights. This report was prepared for the purpose of updating records of the Division of Water Rights.

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## SECTION C. DIVISION OF WATER RIGHTS - FOR OFFICIAL USE ONLY

Received: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ Filed: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ Reviewed By: \_\_\_\_\_

Database Changed: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ By: \_\_\_\_\_

File Changed: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ By: \_\_\_\_\_

New File Number based on Segregation \_\_\_\_\_

Remarks: \_\_\_\_\_

AMOUNT OF WATER RIGHT RETAINED \_\_\_\_\_

No agency of the State of Utah warrants or guarantees title to certain water rights. The water right ownership information of record in the Division of Water Rights concerning this water is based on the information which has been submitted by this Report of Water Right Conveyance.

REPORT OF WATER RIGHT CONVEYANCE



## REPORT OF WATER RIGHT CONVEYANCE

WATER RIGHT # \_\_\_\_\_ EXCHANGE # \_\_\_\_\_

### SECTION A. CONVEYANCE SUMMARY

If no water right number is mentioned on deed, is a map attached? Yes \_\_\_\_ No \_\_\_\_

1. Assignment \_\_\_\_ Warranty Deed \_\_\_\_ Quitclaim Deed \_\_\_\_ Sheriff's Deed \_\_\_\_ Trustee's Deed \_\_\_\_ Water Deed \_\_\_\_ Trust Deed \_\_\_\_

Other : \_\_\_\_\_

2. Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_ Date Recorded \_\_\_\_/\_\_\_\_/\_\_\_\_

Book \_\_\_\_\_ Page # \_\_\_\_\_ Entry # \_\_\_\_\_

3. Grantor(s) \_\_\_\_\_

#### 4. Portion of Beneficial Uses Conveyed

	Water Right Sole Supply		Change Sole Supply (if any)
Irrigation	_____ (acres)	Irrigation	_____ (acres)
Stockwatering	_____ (ELUs)	Stockwatering	_____ (ELUs)
Domestic	_____ (families)	Domestic	_____ (families)
Municipal	_____ (ac ft)	Municipal	_____ (ac ft)
Industrial	_____ (ac ft)	Industrial	_____ (ac ft)
Other	_____ (ac ft)	Other	_____ (ac ft)
5. Diversion Limit	_____ (ac ft)	5. Diversion Limit	_____ (ac ft)

6. Special Conditions of Conveyance \_\_\_\_\_

7. Grantee(s) \_\_\_\_\_

8. Mailing Address : \_\_\_\_\_

9. E-mail Address : \_\_\_\_\_

If no water right number is mentioned on deed, is a map attached? Yes \_\_\_\_ No \_\_\_\_

1. Assignment \_\_\_\_ Warranty Deed \_\_\_\_ Quitclaim Deed \_\_\_\_ Sheriff's Deed \_\_\_\_ Trustee's Deed \_\_\_\_ Water Deed \_\_\_\_ Trust Deed \_\_\_\_

Other : \_\_\_\_\_

2. Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_ Date Recorded \_\_\_\_/\_\_\_\_/\_\_\_\_

Book \_\_\_\_\_ Page # \_\_\_\_\_ Entry # \_\_\_\_\_

3. Grantor(s) \_\_\_\_\_

#### 4. Portion of Beneficial Uses Conveyed

	Water Right Sole Supply		Change Sole Supply (if any)
Irrigation	_____ (acres)	Irrigation	_____ (acres)
Stockwatering	_____ (ELUs)	Stockwatering	_____ (ELUs)
Domestic	_____ (families)	Domestic	_____ (families)
Municipal	_____ (ac ft)	Municipal	_____ (ac ft)
Industrial	_____ (ac ft)	Industrial	_____ (ac ft)
Other	_____ (ac ft)	Other	_____ (ac ft)
5. Diversion Limit	_____ (ac ft)	5. Diversion Limit	_____ (ac ft)

6. Special Conditions of Conveyance \_\_\_\_\_

7. Grantee(s) \_\_\_\_\_

8. Mailing Address : \_\_\_\_\_

9. E-mail Address : \_\_\_\_\_

# REPORT OF WATER RIGHT CONVEYANCE

WATER RIGHT # \_\_\_\_\_

## SECTION B. CERTIFICATION

I, \_\_\_\_\_, certify that I am authorized by Administrative Rule R655-3-7 to complete this report, and that the information contained herein or attached hereto is true and accurate to the best of my knowledge.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

## FOR LICENSED PROFESSIONALS ONLY

I, \_\_\_\_\_, certify that I am licensed as \_\_\_\_\_ in the State of Utah, that my license number is \_\_\_\_\_, that I was retained by an owner of the water right to prepare or supervise the preparation of the Report of Conveyance; that the report is true and accurate to the best of the preparer's knowledge; that an appropriate search of County Records records has been made and that the attached documents evidence the ownership interest of the grantee.

Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

Address: \_\_\_\_\_

This report is not a title opinion based on the title search made. It does not warrant or guarantee title to water rights. This report was prepared for the purpose of updating records of the Division of Water Rights.

## SECTION C. DIVISION OF WATER RIGHTS - FOR OFFICIAL USE ONLY

Received: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ Filed: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ Reviewed By: \_\_\_\_\_

Database Changed: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ By: \_\_\_\_\_

File Changed: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ By: \_\_\_\_\_

New File Number based on Segregation \_\_\_\_\_

Remarks: \_\_\_\_\_

AMOUNT OF WATER RIGHT RETAINED \_\_\_\_\_

No agency of the State of Utah warrants or guarantees title to certain water rights. The water right ownership information of record in the Division of Water Rights concerning this water is based on the information which has been submitted by this Report of Water Right Conveyance.

# APPENDIX D

**WATER RIGHT ASSIGNMENT  
STATE OF UTAH  
UTAH DIVISION OF WATER RIGHTS**

RECORDER'S STAMP

For valuable consideration, \_\_\_\_\_,  
\_\_\_\_\_, as assignor(s)  
hereby assign(s) all of Water Right Number \_\_\_\_\_, and all water rights evidenced  
thereby to the following assignee:

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State & Zip Code: \_\_\_\_\_

Joint tenants: Yes \_\_\_ or No \_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Present Owner (Assignor)

\_\_\_\_\_  
Present Owner (Assignor)

STATE OF UTAH )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Before me, \_\_\_\_\_ a notary public, personally appeared,  
Notary Public Name  
\_\_\_\_\_ provided on the basis of satisfactory evidence to be the person(s)  
Name of document signer

whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

- This assignment form must be recorded with the appropriate County Recorder.
- A copy of this form, when recorded, may be forwarded by the County Recorder to the Utah Division of Water Rights, who will treat the submission as a filed Report of Conveyance to update water right ownership records.

*Assignment*

# APPENDIX E

## WATER RIGHTS ADDENDUM TO LAND DEEDS

Grantor: \_\_\_\_\_

Grantee: \_\_\_\_\_

Tax ID Number(s): \_\_\_\_\_

**In connection with the conveyance of the above referenced parcel(s), Grantor hereby conveys to Grantee without warranty, except for a warranty of title as to all claiming title by or through Grantor, the following interests in water and/or makes the following disclosures:**

**Check one box only**

1 ☒ All of Grantor's water rights used on Grantor's Parcel(s) are being conveyed.

2 ☐ Only a portion of Grantor's water rights are being conveyed.

(County Recorder should forward a copy of this form to the Utah Division of Water Rights if Box 1 or 2 above is checked)

3 ☐ No water rights are being conveyed.

4 ☐ Water rights are being conveyed by separate deed.

Proceed to Section

A

B

C

C

**Important Notes**

(see other side)

**Section**

<b>A</b>	The water right(s) being conveyed include Water Right No(s). _____ along with all applications pertaining to the water right(s) listed in this Section A, and all other appurtenant water rights. <i>(Proceed to Section C)</i>	N1  N2 N3
<b>B</b>	Only the following water rights are being conveyed: (check all boxes that apply) <input type="checkbox"/> All of Water Right No(s). _____ <input type="checkbox"/> _____ acre-feet from Water Right No. _____ for: _____ families; _____ acres of irrigated land; stock water for _____ Equivalent Livestock Units; and/or for the following other uses: _____ <input type="checkbox"/> _____ acre-feet from Water Right No. _____ for: _____ families; _____ acres of irrigated land; stock water for _____ Equivalent Livestock Units; and/or for the following other uses: _____ Along with all applications pertaining to the water right(s) listed in this Section B. <i>(Proceed to Section C)</i>	N1 N4 N5  N5  N2
<b>C</b>	Disclosures by Grantor: (check all boxes that apply) <input type="checkbox"/> Grantor is endorsing and delivering to Grantee stock certificates for _____ share(s) of stock in the following water company: _____ <input type="checkbox"/> Culinary water service is provided by: _____ <input type="checkbox"/> Outdoor water service is provided by: _____ <input type="checkbox"/> There is no water service available to Grantor's Parcel(s). <input type="checkbox"/> Other water related disclosures: _____	N6  N7 N8 N9 N10
Attach and sign additional copies of this form if more space is needed.		

*The undersigned acknowledge sole responsibility for the information contained herein even though they may have been assisted by employees of the Utah Division of Water Rights, real estate professionals, or other professionals, except to the extent that title insurance or a legal opinion concerning such information is obtained.*

Grantor's Signature: \_\_\_\_\_

Grantee's Acknowledgment of Receipt: \_\_\_\_\_

Grantee's Mailing Address: \_\_\_\_\_

**NOTE: GRANTEE MUST KEEP A CURRENT ADDRESS ON FILE WITH THE UTAH DIVISION OF WATER RIGHTS**

## NOTES TO WATER RIGHTS ADDENDUM TO LAND DEEDS

Please read the following notes carefully in order to avoid problems and the possible loss of the water rights being conveyed in connection with this transaction.

The mere purchase of a water right does not guarantee: (1) that the water right is in good standing with the Utah Division of Water Rights; (2) that the owner has clear title to the water right; (3) that the Division will recognize the ownership change; or (4) that the Division will approve any proposed change into any water right before purchasing it.

- N1 the county recorder shall transmit a paper or electronic copy of the deed and water rights addendum to the state engineer. Water right deeds and addendum submitted in conformance with statute which names as the grantor the person listed as owner on state engineer records - shall be processed as though it were a completed report of water right conveyance. If the state engineer does not update water right ownership on records of the Division upon submittal of a Water Right Addendum and deed, a water right owner must submit a report of water right conveyance (ROC) as directed in Utah Code Section 73-1-10(3). Filing an ROC is necessary in order to: with current ownership and address information; (2) file any application on these water rights; and (3) receive notifications concerning deadlines and other essential information pertaining to these rights. Help with reviewing the water rights and the ROC can be obtained from the Utah Division of Water Rights and/or water professionals, such as attorneys, engineers, surveyors, and title professionals with experience in water rights and water law.
- N2 A water right often has one or more applications on file with the Utah Division of Water Rights that affect that water right, such as change applications, extension requests, and non-use applications. All applications will be transferred with the water right. The Grantee should review the water right applications and other documents on file with the Utah Division of Water Rights.
- N3 water conveyance includes all appurtenant water rights, whether or not they are listed by water right number or are of record; only water right numbers listed on the addendum will be updated. Grantee should investigate each water right listed and determine if there are any water rights that are not of record. If there are water rights not of record, Grantee should seriously consider making them of record by filing the appropriate forms with the Utah Division of Water Rights.
- N4 100% of the water rights listed here are being conveyed to Grantee. The Water Rights listed in Section B may not provide sufficient water for all of the historical water uses.
- N5 Less than 100% of the water right listed is being conveyed to Grantee. The exact portion to be conveyed, expressed in terms of the beneficial uses associated with this portion of the water right must be described. This description generally consists of: (1) the number of families for domestic (indoor culinary) uses (generally quantified as 0.45 acre-feet per family for a year round residence and 0.25 acre-feet of water allowed per acre of irrigated land right when more than one right is used on the same land or for the same livestock); and (3) the number of livestock being watered (expressed in terms of equivalent livestock -feet per ELU for full-year use. Any other uses being conveyed should be similarly described. Help with understanding the described uses of the water right can be obtained from the Utah Division of Water Rights and/or water professionals.
- N6 Shares of stock in water companies (including irrigation, canal, and ditch companies) are generally not transferred by deed. Each company has procedures for transferring ownership. The company should be contacted to ascertain the appropriate procedures to follow. The most common procedure is for the Grantor to endorse and deliver the stock certificate to the Grantee, who then presents that certificate to company for issuance of a new certificate in the name of the Grantee. The Grantee should contact the company about all such issues.
- N7 company, that entity should be listed here and the Grantee should contact that entity to ascertain what is required to continue receiving such service.
- N8 district, or a water company, that entity should be listed here and the Grantee should contact that entity to ascertain what is required to continue receiving such service.
- N9 If this box is checked, the Grantee should investigate whether the water right is subject to any special conditions.
- N10 This space should be used for any other information that the Grantor has which is relevant to water issues associated with this Parcel.

The Utah Division of Water Rights (often referred to as the State Engineer's Office) is located at 1594 W. North Temple, Suite 220, PO Box 146300, Salt Lake City, Utah 84114-6300 Telephone: 801-538-7240 Web Address: [www.waterrights.utah.gov](http://www.waterrights.utah.gov)

## WATER RIGHTS ADDENDUM TO WATER DEEDS

Grantor: \_\_\_\_\_

Grantee: \_\_\_\_\_

Water Right No(s): \_\_\_\_\_

In connection with the foregoing water rights conveyance, Grantor hereby assigns to Grantee all water rights listed which are not yet capable by law of being conveyed by deed (e.g., pending or unapproved water rights) and all applications pertaining to the water rights listed (e.g., all change applications, extension applications, non-use applications, etc.). Grantor also makes the following declarations and disclosures:

---

**SECTION 1 - TYPE OF DEED**    *Check one box only - Must match language in the deed*

- ☐ The foregoing deed is a warranty deed. (Grantor is making all standard warranties.)
- ☐ The foregoing deed is a special warranty deed. (Grantor is only warranting that Grantor has not previously conveyed title to others, i.e., a warranty of title as to all claiming by or through Grantor.)
- ☐ The foregoing deed is a quit claim deed. (Grantor is making no warranties.)
- ☐ The language in the foregoing deed is controlling as to the type of deed and associated warranties, if any.  
(County Recorder should forward a copy of this form to the Utah Division of Water Rights if any box above is checked)

---

**SECTION 2 - APPURTENANT WATER RIGHTS**    *Check one box only*

- ☐ All of Grantor's water rights approved for use on the following described parcel(s) are being conveyed.
- ☐ In addition to any specifically identified rights, all other water rights owned by Grantor and approved for use on the following described parcel(s) are being conveyed. \_\_\_\_\_
- ☐ No water rights other than those specifically identified by water right number are being conveyed.

---

**SECTION 3 - WATER RIGHTS CONVEYED IN WHOLE OR IN PART**    *Check all applicable boxes*

- ☐ 100% of the following water rights described in the deed are being conveyed. Water Right Nos. \_\_\_\_\_
- ☐ Only the portion indicated of the following water rights described in the deed are being conveyed.
- \_\_\_\_\_ acre-feet from Water Right No. \_\_\_\_\_ for: \_\_\_\_\_ families; \_\_\_\_\_ acres of irrigated land;  
stock water for \_\_\_\_\_ Equivalent Livestock Units; and/or for the following other uses: \_\_\_\_\_
- \_\_\_\_\_ acre-feet from Water Right No. \_\_\_\_\_ for: \_\_\_\_\_ families; \_\_\_\_\_ acres of irrigated land;  
stock water for \_\_\_\_\_ Equivalent Livestock Units; and/or for the following other uses: \_\_\_\_\_
- \_\_\_\_\_ acre-feet from Water Right No. \_\_\_\_\_ for: \_\_\_\_\_ families; \_\_\_\_\_ acres of irrigated land;  
stock water for \_\_\_\_\_ Equivalent Livestock Units; and/or for the following other uses: \_\_\_\_\_
- ☐ The language in the foregoing deed is controlling as to quantity, if any.

---

**SECTION 4 - OTHER DISCLOSURES**    *Check all applicable boxes*

- ☐ Grantor is endorsing and delivering to Grantee stock certificates for \_\_\_\_\_ shares of stock in the following water company: \_\_\_\_\_
- ☐ Other water related disclosures: \_\_\_\_\_
- \_\_\_\_\_

---

*The undersigned acknowledge sole responsibility for the information contained herein even though they may have been assisted by employees of the Utah Division of Water Rights, real estate professionals, or other professionals, except to the extent that title insurance or a legal opinion concerning such information is obtained.*

Grantor's Signature: \_\_\_\_\_

Grantee's Acknowledgment of Receipt: \_\_\_\_\_

Grantee's Mailing Address: \_\_\_\_\_

**NOTE: GRANTEE MUST KEEP A CURRENT ADDRESS ON FILE WITH THE UTAH DIVISION OF WATER RIGHTS**

## NOTES TO WATER RIGHTS ADDENDUM TO WATER DEEDS

Please read the following notes carefully in order to avoid problems and the possible loss of the water rights being conveyed in connection with this transaction.

The mere purchase of a water right does not guarantee: (1) that the water right is in good standing with the Utah Division of Water Rights; (2) that the owner has clear title to the water right; (3) that the Division will recognize the ownership change; or (4) that the Division will approve any proposed changes or extensions regarding the water right. You are encouraged to conduct proper "due diligence" research into any water right before purchasing it.

### Section

- 1-4 Once this Water Right Addendum and deed has been recorded at the County Recorder's Office, the county recorder shall transmit a paper or electronic copy of the deed and water rights addendum to the state engineer. Water right deeds and addendum submitted in conformance with statute which names as the grantor the person listed as owner of state engineer records - shall be processed as though it were a completed report of water right conveyance. If the state engineer does not update water right ownership on records of the Division upon submittal of a Water Right Addendum and deed, a water right owner must submit a report of water right conveyance (ROC) as directed in Utah Code Section 73-1-10(3). Filing an ROC is necessary in order to: (1) have the Division's records updated with current ownership and address information; (2) file any application on these water rights; and (3) receive notifications concerning deadlines and other essential information pertaining to these rights. Help with reviewing the water rights and the ROC can be obtained from the Utah Division of Water Rights and/or water professionals, such as attorneys, engineers, surveyors, and title professionals with experience in water rights and water law.
- 1 There are three general types of deeds - warranty deeds, special warranty deeds, and quit claim deeds - which can be used to convey water rights. The primary difference between them is the type of warranty being given, which has a dramatic effect on the rights and responsibilities of both the Grantor and the Grantee. If you are unsure about the type of deed that you should use or accept, you should obtain legal advice on this issue.
- 2 Water rights owned by the Grantor and used on Grantor's Parcel may be "appurtenant" to Grantor's Parcel. Not all appurtenant water rights have been assigned a water right number because not all water rights are "of record." If either of the first two boxes in Section 2 are checked, this conveyance includes all appurtenant water rights, whether or not they are listed by water right number or are of record; only water right numbers listed on the addendum will be updated. Grantee should investigate each water right listed and determine if there are any water rights that are not of record. If there are water rights not of record, Grantee should seriously consider making them of record by filing the appropriate forms with the Utah Division of Water Rights.
- 3 A Water right can be conveyed in whole (100% of the right is conveyed) or in part (only a portion of the right is conveyed). If the whole right is conveyed, you do not need to describe the beneficial uses associated with the right. If only a part is being conveyed, you need to describe exactly what beneficial uses are being conveyed. This is usually expressed in terms of acre-feet and generally consists of: (1) the number of families for domestic (indoor culinary) uses (generally quantified as 0.45 acre-feet per family for a year-round residence and 0.25 acre-feet per family for a seasonal residence); (2) the number of acres irrigated (this involves issues of "irrigation duty" [the number of acre-feet of water allowed per acre of irrigated land] and "sole supply/supplemental supply" [the amount of water allocated to each water right when more than one right is being used on the same land or for the same livestock]; and (3) the number of livestock being watered (expressed in terms of equivalent livestock units or "ELUs" which are quantified at the rate of 0.028 acre feet per ELU for full-year use). Any other uses being conveyed should be similarly described. Help with evaluating, quantifying, and/or describing the uses can be obtained from the Utah Division of Water Rights and/or water professionals.
- 4 Shares of stock in water companies (including irrigation, canal, and ditch companies) are generally not transferred by deed. Each company has procedures for transferring ownership. The company should be contacted to ascertain the appropriate procedures to follow. The most common procedure is for the Grantor to endorse and deliver the stock certificate to the Grantee, who then presents that certificate to company for issuance of a new certificate in the Grantee's name. If another procedure is to be followed, that should be noted on the "Other water related disclosures" line in Section 4 of this form. Each company also defines how much water is associated with a particular share and what fees and assessments are charged. The Grantee should contact the company about all such issues. There is also space provided in this section for any other information that the Grantor believes may be relevant to the water rights being transferred or for any other water related issues.

The Utah Division of Water Rights (often referred to as the State Engineer's Office) is located at  
1594 W. North Temple, Suite 220, PO Box 146300, Salt Lake City, Utah 84114-6300  
Telephone: 801-538-7240 Web Address: [www.waterrights.utah.gov](http://www.waterrights.utah.gov)

# APPENDIX F

## **MAPPING STANDARDS FOR ROC'S**

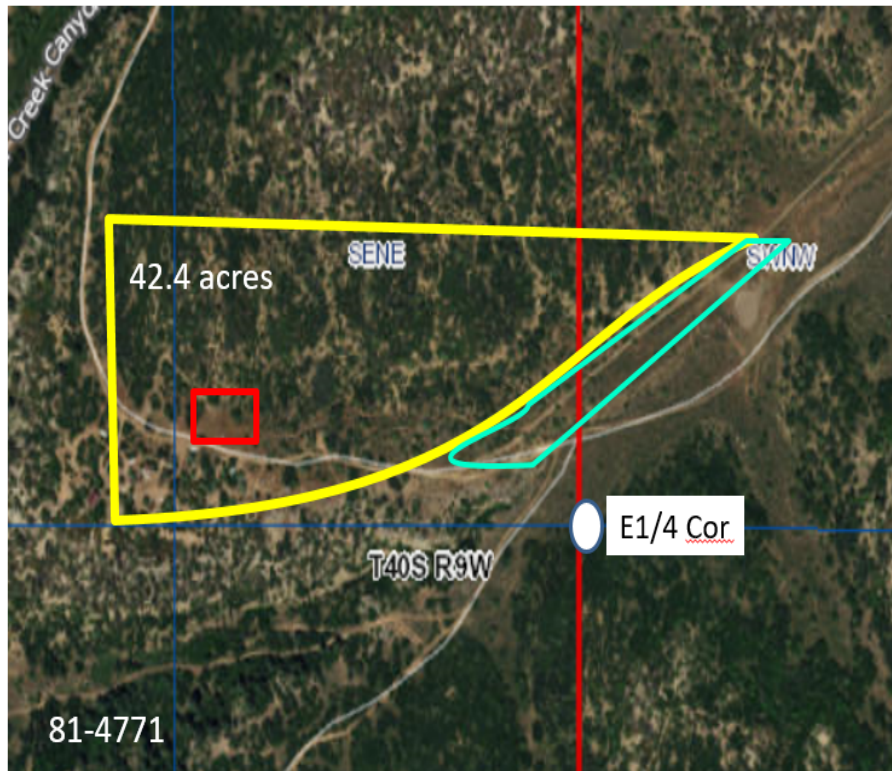
Maps are required when a water right is conveyed as an appurtenance to property. A map is a graphical depiction of the water right place of use overlain by the metes and bounds description of the property conveyed in a land deed demonstrating graphically and to scale the portion of the water right which is appurtenant to the property described.

Maps shall meet the following standards:

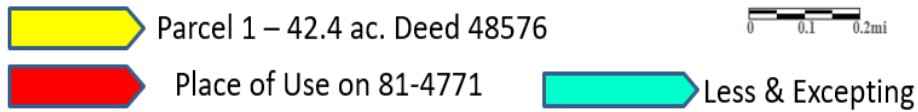
- Maps must be legible.
- Maps may be 8 1/2 x 11 or 8 1/2 x 14 inches in size.
- Maps are to state the water right number conveyed.
- Maps are to include a north arrow.
- Maps are to be drawn to scale with a graphical scale bar contained thereon.
- Maps are to include appropriate Public Land Survey lines and labeled with section(s), township, range, and base and meridian.
- At least one section corner location or appropriate survey tie is to be shown on the map and labeled as such.
- Maps are to include and depict the entire parcel described as conveyed on the land deed and the actual acreage of the parcel.
- Maps are to show by hatching or shading the authorized place of use of the water right which is appurtenant to land described in a land deed.
- Maps are to show any reservations from the property including property described by language such as "less and excepting" in the overall property description.
- Each deed submitted must have a map accompanying it unless the property description in every deed is identical.
- Maps should include a legend containing an identifier for the deed mapped, parcel numbers, subdivision name and lot numbers, and any other information needed to connect the map to the deed in a clear and consistent manner.

The accuracy and completeness of maps are the responsibility of the professional preparing the Report of Water Right Conveyance. Additional information may be required by the Division of Water Rights to adequately identify the property to which water rights are appurtenant or the place of use of a portion of a water right being conveyed.

# Sections 25 & 26, T40S, R9W



- Section, Township and Range
- Section Corner
- Water Right #
- North Arrow
- Scale
- Parcel
- Acreage
- Place of Use
- Less & excepting
- Legends



Description on Deed changes, need new map

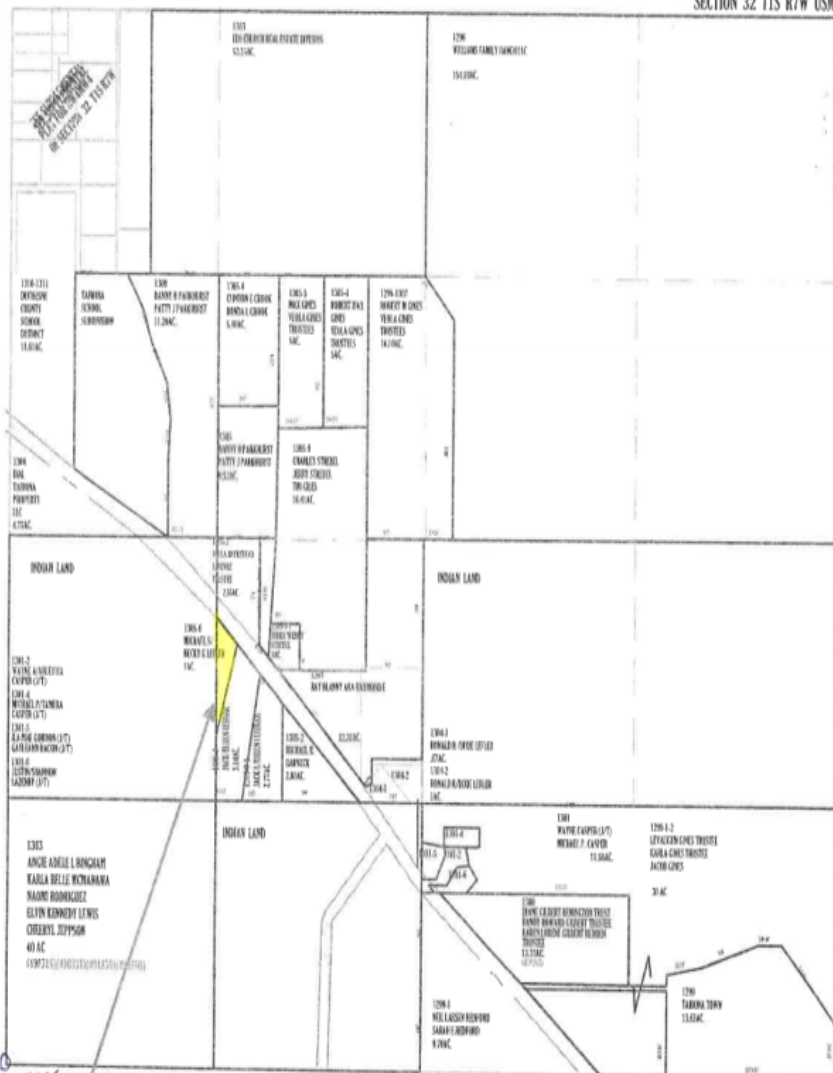
36	31	32	33	34	35	36	31
1	4	5	6	7	8	9	10
11	16	17	18	19	20	21	22
21	26	27	28	29	30	31	32
31	36	37	38	39	40	41	42
41	46	47	48	49	50	51	52
51	56	57	58	59	60	61	62
61	66	67	68	69	70	71	72
71	76	77	78	79	80	81	82
81	86	87	88	89	90	91	92
91	96	97	98	99	100	101	102

NOTE: THIS PLAN IS MADE SUBJECT TO THE PROVISIONS OF THE SUBDIVISION MAP ACT AND THE SUBDIVISION MAP ACT REGULATIONS. THE LAND SHOWN ON THIS PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THE LANDLORD. THE LAND SHOWN ON THIS PLAN IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THE LANDLORD.

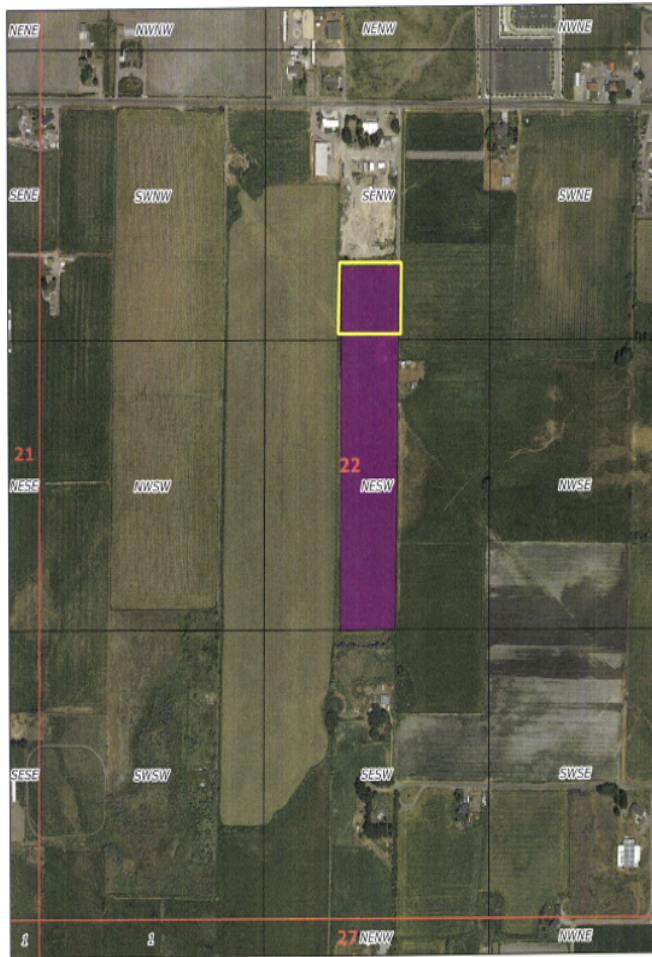
**LEGEND**

Solid black square = 0.67%  
Solid grey square = 0.33%  
Open square = 0.17%

(C) = Cystitis  
(D) = Dysuria  
(F) = Frequency  
(N) = Nocturia  
(P) = Pollakiuria



SW corner  
Sec 32 T15 R7W



Report of Conveyance Map

- Section Lines
- Quarter-Quarter Section Lines
- 17042 - 3.08 acres
- 55-2066 POU - 12 acres

0 400 800

RECEIVED

JUL 18 2018

WA 1200 ft HTS  
SALT LAKE

SCANNED RC

# APPENDIX G

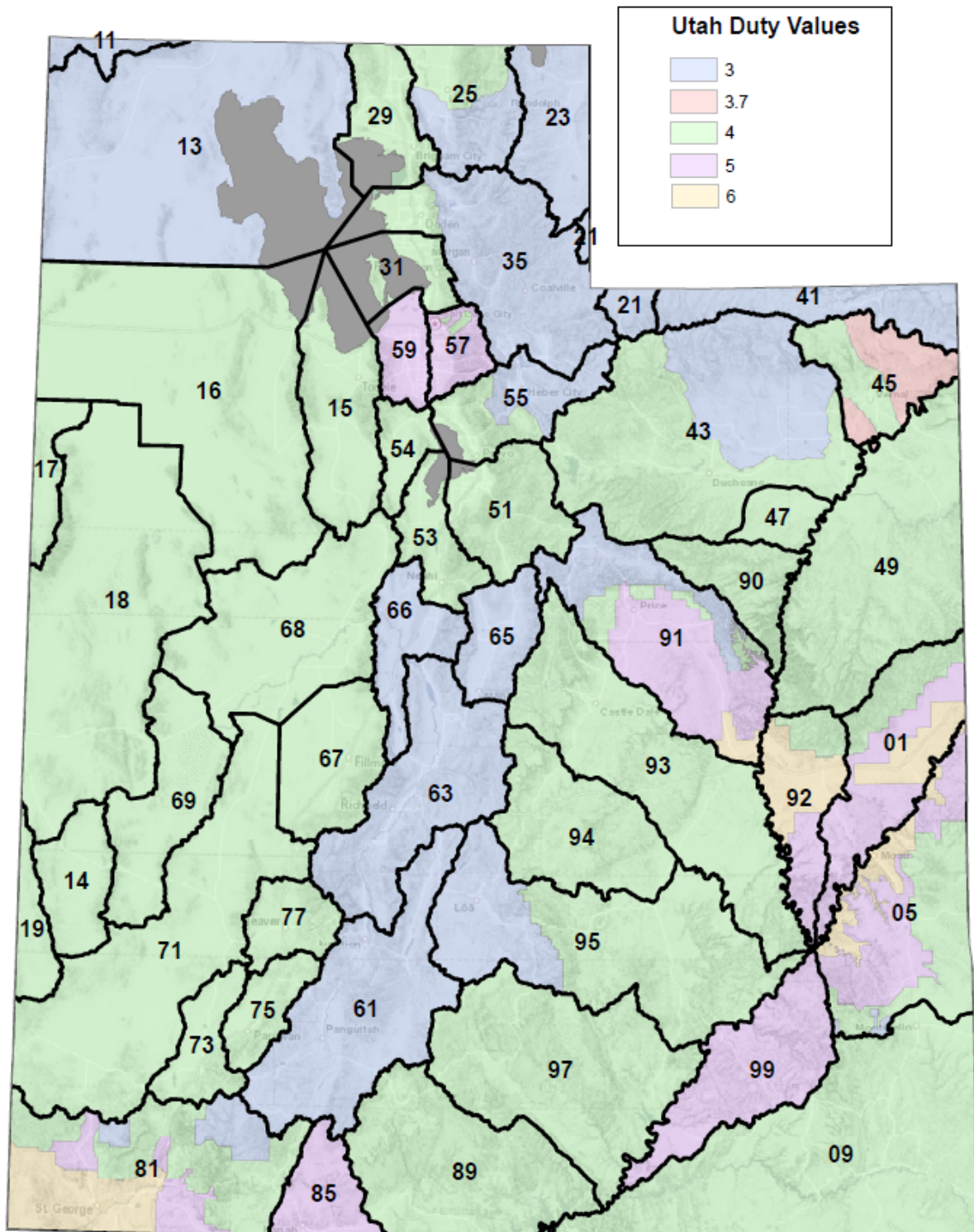
## REPORT OF WATER RIGHT CONVEYANCE REVIEW CHECKLIST

WATER RIGHT #

TYPE OF ROC: ☐ FULL ☐ PORTION

Criteria	YES	NO	Comments
<b>SECTION A: CONVEYANCE SUMMARY</b>			
➤ <b>GRANTOR(S)</b> (same person shown to be owner of record on the Division of Water Rights Database)	<input type="checkbox"/>	<input type="checkbox"/>	
➤ <b>MAILING ADDRESS FOR GRANTEE</b> (New Owner: Usually the last grantee in the chain of title would be the new owner)	<input type="checkbox"/>	<input type="checkbox"/>	
<b>SECTION B: CERTIFICATION (2<sup>nd</sup> Page)</b>			
<b>SIGNATURE</b>			
➤ <b>Preparer:</b> must sign ROC	<input type="checkbox"/>	<input type="checkbox"/>	
➤ <b>Professional:</b> (If a map needs to be attached) Authorized Professionals: Attorney, Engineer, Title Insurance Agent or Land Surveyor	<input type="checkbox"/>	<input type="checkbox"/>	
<b>SUPPORTING DOCUMENTATION</b>			
<b>ALL</b> conveyance documents as listed on the ROC (including maps, if required).	<input type="checkbox"/>	<input type="checkbox"/>	
➤ <b>MAPS</b> If <b>any</b> of the deeds fail to mention the Water Right Number a map must be submitted to establish appurtenance.	<input type="checkbox"/>	<input type="checkbox"/>	
<b>PORTIONS</b>			
<u>All items should be checked as listed above and also include the following:</u>			
➤ Beneficial Uses (irrigation, stockwatering, domestic etc.) will need to be listed, shown in acre-foot, or percentages.	<input type="checkbox"/>	<input type="checkbox"/>	
Filing fee submitted?	<input type="checkbox"/>	<input type="checkbox"/>	
Water Right Number listed on ROC?	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Comments</b>			

# APPENDIX H



# APPENDIX I

## Water Use Information for Water Right Applications

Revised: April 17, 2018

Beneficial use is the basis, the measure and the limit of all rights to the use of water in this state. A water right is quantified based on its beneficial use.

The diversion figure in water right applications is the quantity of water expressed as a flow rate in cfs (cubic feet per second) and/or as a volume in acre-feet to be taken from a well, river, spring, etc. for the required purpose. Unless limited by a period of use or otherwise noted with a specific water right's definition, a water right's time basis for quantification is Annual.

The depletion figure is the quantity of water consumed which will be lost to the hydrologic system through said use. Depleted water does not return to the surface water sources or underground aquifers via seepage, drainage, etc. but is consumed in the growth of plants and animals, evaporation, and transmission away from the area. The following figures are used for general quantification. As new data is available, these figures may change. If applicants provide specific figures based on design criteria, testing data, monitored measurements, etc. which differ from these amounts, such information will be reviewed and considered. One cubic-foot per second equals about 450 gallons per minute. One acre-foot of water equals 325,851 gallons.

**DOMESTIC (inside use only):** Water diversion for a full-time (permanent residence) use is evaluated at 0.45 acre-foot per family per year. Part-time (seasonal or recreational) use is equated at 0.25 acre-foot per family per year. Depletion is generally 20% if using a septic tank or drain field system. It varies if the residence is connected to a community sewage system depending on the treatment method used and its distance away from the diverted source.

The State Engineer will consider reduced amounts of water required per connection in applications filed if the projected usage rate numbers are based on scientific evaluations and the water used is measured and reported to the Division of Water Rights through the Water Use Program. Proof and Certificate documents would be based on actual measurements of water substantiating the volumes of water diverted and depleted ([Policy For Domestic Duty Considerations](#)).

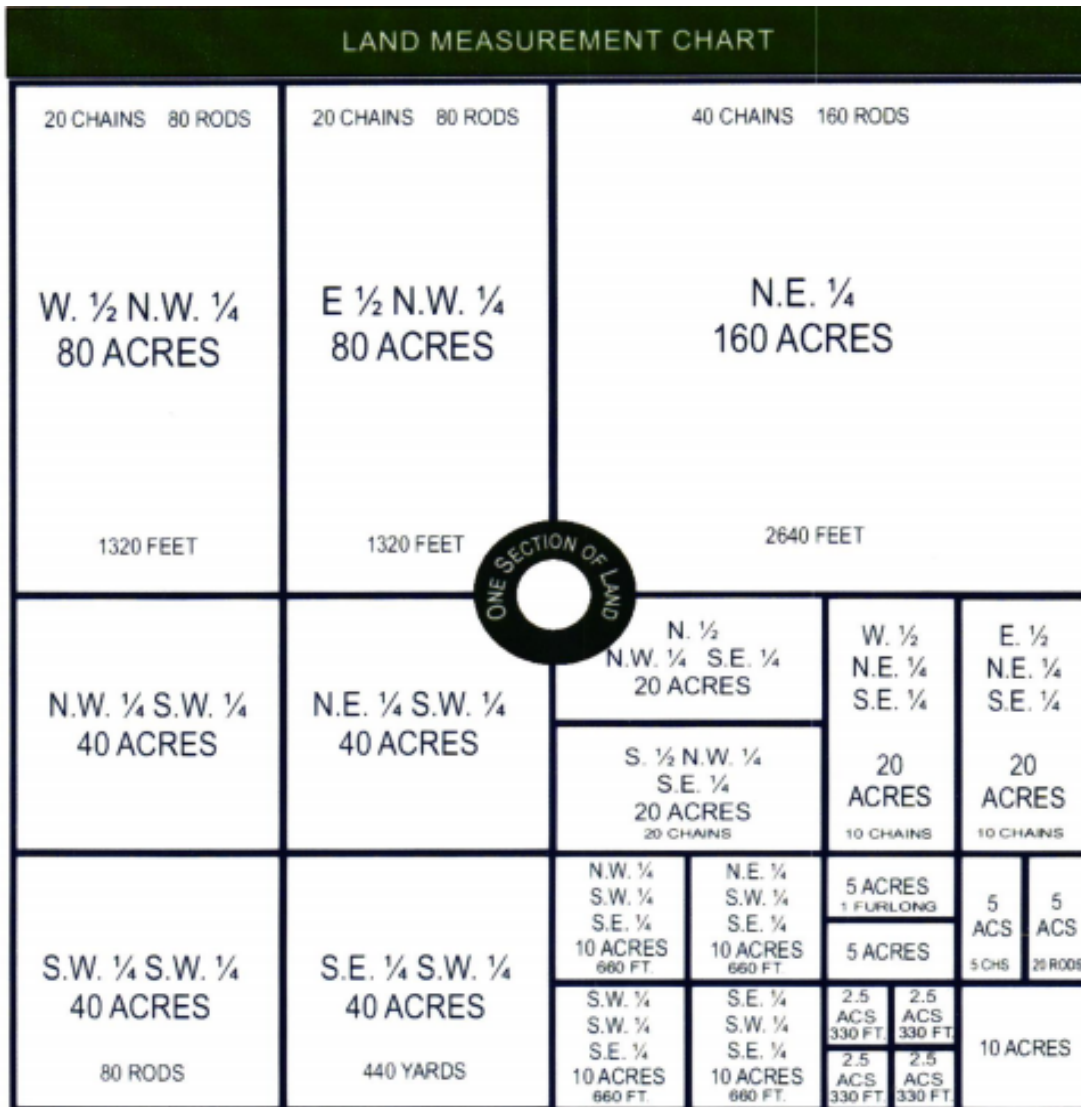
**IRRIGATION (any outside watering):** This purpose includes watering of crops, lawns, gardens, orchards, and landscaping. The diversion amount (irrigation duty) ranges from 2 acre-feet per acre in cool, mountain meadow areas to 6 acre-feet per acre in low, hot southern areas of the state. Higher, cooler valleys are generally 3 acre-feet per acre, and lower moderate areas 4 or 5 acre-feet per acre. If land is subirrigated or supplemented by other rights or supplies, the diversion rate may be less than average for the area. Generally the irrigation season is described as April 1 to October 31 and/or the general frostfree period in the area. Some court decrees and early rights authorize differing periods. Depletion varies considerably due to differing soils, temperatures, wind factors, etc. and can range from about 40% to about 70%. Figures are taken from available studies (particularly "Consumptive Use of Irrigated Crops in Utah", Research Report 145, [Consumptive Use Information Tables](#)).

**STOCKWATERING:** The diversion figures for this purpose are based on year-round watering. Stock operations for lesser or intermittent periods would need adjustment accordingly. Water diverted for this use is generally considered to be 100% depleted by the animal, evaporation, phreatophytes, and/or waste water collection.

Cow or horse	0.028	acre-foot
Sheep, goat, swine, moose, or elk	0.0056	acre-foot
Ostrich or emu	0.0036	acre-foot
Llama	0.0022	acre-foot
Deer, antelope, bighorn sheep, or mt. goat	0.0014	acre-foot
Chicken, turkey, chukar, sagehen, or pheasant	0.00084	acre-foot
Mink or fox (caged)	0.00005	acre-foot

**INDUSTRIAL, COMMERCIAL, RECREATIONAL, COMMUNITY AND MINING:** Projects are evaluated on an individual basis. Parameters include method of processing or manufacturing, number of employees, length of workshift and period of operation, type of waste processing and/or discharge, and types of employee and/or public facilities (showers, food preparation, etc.). The [Utah State Administrative Rules for Public Drinking Water Systems](#) are guidelines for such estimates.

# APPENDIX J



1 LINK = 7.92 INCHES  
 1 ROD = 25 LINKS = 5.5 YARDS = 16.5 FEET  
 1 CHAIN = 4 RODS = 100 LINKS = 22 YARDS = 66 FEET  
 1 FURLONG = 10 CHAINS = 40 RODS = 220 YARDS = 660 FEET  
 1 MILE = 8 FURLONGS = 80 CHAINS = 320 RODS = 5,280 FEET  
 1 SQUARE ROD = 30¼ SQUARE YARDS = 272¼ SQUARE FEET  
 1 ACRE = 160 SQUARE RODS = 43,560 SQUARE FEET (208.7 FT X 208.7 FT)  
 1 SECTION = 1 SQUARE MILE = 640 ACRES  
 1 TOWNSHIP = 36 SECTIONS = 36 SQUARE MILES

Section Numbering System within a Township

36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6
12	7	8	9	10	11	12	7
13	18	17	16	15	14	13	18
24	19	20	21	22	23	24	19
25	30	29	28	27	26	25	30
36	31	32	33	34	35	36	31
1	6	5	4	3	2	1	6

Shaded Sections are Sections in Adjacent Townships

## WATER CONVERSION CHART

VOLUME	<u>gallons</u>	<u>cubic feet</u>	<u>acre-foot</u>	<u>M gallons</u>
1 gallon =	1	0.1337	0.00000307	0.0000010
1 cubic foot =	7.48051	1	0.00002296	0.0000075
1 acre-foot =	325,851	43,560	1	0.32585
1 M gallons =	1,000,000	133,680	3.0689	1

FLOW	<u>gallons</u>	<u>cubic feet</u>	<u>acre-foot</u>	<u>M gallons</u>
1 gallon per minute (gpm) =				
Second	0.01667	0.002228	-	-
Minute	1	0.13368	0.000003	0.000001
Hour	60	8.0208	0.000184	0.000060
Day	1,440	192.5	0.004419	0.001440
30-day month	43,200	5,775	0.132576	0.043200
365-day year	525,600	70,262.5	1.613007	0.525600

1 cubic foot per second (cfs) =				
Second	7.48051	1	0.000023	0.000007
Minute	448.83	60	0.001377	0.000449
Hour	26,930	3,600	0.082626	0.026925
Day	646,316	86,400	1.983	0.6463
30-day month	19,389,482	2,592,000	59.49	19,389
365-day year	235,905,363	31,536,000	723.97	235,905

1 acre-foot per year (af/yr) =				
Second	0.01033	0.001381	-	-
Minute	0.61996	0.08287	0.000002	-
Hour	37,1976	4,9726	0.000114	0.000037
Day	892,7425	119,342	0.002740	0.000893
30-day month	26,782	3,580	0.082192	0.026782
365-day year	325,851	43,560	1	0.3259

1 million gallons per day (mgd) =				
Second	11.574	1.54722	0.000036	0.000012
Minute	694.45	92.833	0.002131	0.000694
Hour	41,667	5,570	0.127875	0.041667
Day	1,000,000	133,680	3.069	1
30-day month	30,000,000	4,010,400	92.07	30
365-day year	365,000,000	48,793,200	1,120.18	365

### ESTIMATED PEAK USE / SOURCE REQUIREMENTS (in gpd)

	<u>Culinary</u>	<u>Waste-Water</u>
Per Equivalent		
Residential		
Connection (ERC)	800	400
Recreational Home	400	400
High School Student	25	25
Hospital Bed	250	250
Restaurant Seat	35-50	35
Skier	10	5
Swimmer	10	-

Source: Utah Admin Rules R309-510-7  
and R317-5-1

ESTIMATED ANNUAL USE	<u>acre- feet</u>	<u>gallons</u>
Per Family	0.450	146,633
Cow, Horse or ELU	0.028	9,123.8
Pig, Sheep, Goat,		
Elk or Moose	0.0056	1,824.8
Ostrich or Emu	0.0036	1,173.1
Llama	0.0022	716.9
Deer, Antelope,		
Mtn. Goat/Sheep	0.0014	456.2
Chicken, Turkey or		
Sage Hen	0.00084	273.7
Mink or Fox (caged)	0.00005	16.3

Source: Utah Division of Water Rights

### DUTY VALUES FOR IRRIGATION by County

Duty is the maximum amount of water that can be beneficially used to irrigate one acre of land.

**3 acre-feet duty per acre** Box Elder,\* Cache,\* Daggett, Duchesne,\* Emery,\* Garfield,\* Iron,\* Juab,\* Kane,\* Millard,\* Morgan,\* Piute, Rich, Sanpete,\* Sevier,\* Summit, Uintah\* (3.7 in some places), Utah,\* Wasatch,\* Washington,\* Wayne,\* and Weber\*

**4 acre-feet duty per acre** Beaver, Box Elder,\* Carbon,\* Cache,\* Davis, Duchesne,\* Emery,\* Garfield,\* Grand,\* Iron,\* Juab,\* Kane,\* Millard,\* Salt Lake,\* San Juan,\* Sanpete,\* Sevier,\* Tooele, Weber,\* Uintah,\* Utah,\* Wasatch,\* Washington,\* Wayne,\* and Weber\*

**5 acre-feet duty per acre** Carbon,\* Emery,\* Grand,\* Kane,\* Salt Lake,\* San Juan,\* and Washington\*

**6 acre-feet duty per acre** Emery,\* Grand,\* San Juan,\* and Washington\*

\*County has different duty limits for various portions of the County.