Water Rights Ownership in Nevada

Certified Residential Specialists (CRS)

Hugh Ricci, P.E. & Tracy Taylor, P.E.
State Engineer’s Office
April 13, 2006
Water Resources & State Engineer’s Office are Interchangeable
HISTORICAL DATES

1903
- State Engineer's office created
- Method to account for existing surface water use and its priority.

1905
- Method for appropriating surface water.

1913
- Act setting forth comprehensive procedures on:
  - Appropriation including artesian aquifers

1939
- Ground water law – NRS chapter 534
Water Law in Nevada

Prior Appropriation Doctrine

✓ First in time, first in right,
✓ Beneficial use is the limit of the water right,
✓ Use it or lose it
1 Acre-Foot of Water

• 325,851 gallons; or

• An acre of ground (~one football field) covered with 1’ of water; or

• Enough water to supply two families of 4 (depending on outside irrigation) for one year.
DUTIES OF THE STATE ENGINEER

- Appropriation
- **Water Right Ownership**
- Distribution & Regulation
- Well Drilling Regulations
- Subdivision Review
- Adjudication
- Water Planning
- Flood Plain Management
- Dam Safety
- Artificial Recharge
- Primary and Secondary Applications
• All water within the boundaries of the state belong to the public

• All Use of Non-Decreed Water Requires a Permit from the S.E. (except domestic wells)
  – New Appropriations
  – Changes of Existing or Decreed Rights
DOMESTIC WATER WELLS

• A water right application and permit are not required in order to drill a domestic well
  – Domestic purposes as defined under NRS 534.013 extends to culinary and household purposes, in a single family dwelling, the watering of a family garden, lawn and the watering of domestic animals
• The maximum daily draught is limited to 1,800 gallons (2.02 acre-feet per year)
Other Important Concepts

- **Supplemental Rights** – two or more rights used together for an intended use.
- **Comingled Rights** – where more than one source, e.g. s.w. and g.w. or g.w. and effluent, are used together simultaneously for an intended use.
Subdivisions

• A subdivision is defined as having more than four (4) lots
• S.E. has signatory authority on all subdivisions within the state, including subdivisions served by domestic wells (since 1973)
  – The S.E. acts in an advisory capacity on parcel maps.
• The S.E.’s signature states that water is available from the source
Parceling and Subdivisions

• Subdivisions approved by State Engineer
  – More than 4 parcels
  – Approve water availability
  – Must have water right

• Parcel maps are **not** approved by the SE
  – Four or less new parcels
  – SE may ask county to require dedication of water rights on approval
Property conditions, improvements and additional information:

Are you aware of any of the following:

1. Structure:
   (a) Previous or current moisture conditions and/or water damage? ........................................... ☐ ☐ ☐
   (b) Any structural defect? ........................................... ☐ ☐ ☐
   (c) Any construction, modification, alterations, or repairs made without required state, city or county building permits? ........................................... ☐ ☐ ☐
   (d) Whether the property is or has been the subject of a claim governed by NRS 40.606 to 40.695 (construction defect claims)? ........................................... ☐ ☐ ☐
      (If seller answers yes, FURTHER DISCLOSURE IS REQUIRED)

2. Land / Foundation:
   (a) Any of the improvements being located on unstable or expansive soil? ........................................... ☐ ☐ ☐
   (b) Any foundation sliding, settling, movement, upheaval, or earth stability problems that have occurred on the property? ........................................... ☐ ☐ ☐
   (c) Any drainage, flooding, water seepage, or high water table? ........................................... ☐ ☐ ☐
   (d) The property being located in a designated flood plain? ........................................... ☐ ☐ ☐
   (e) Whether the property is located next to or near any known future development? ........................................... ☐ ☐ ☐
   (f) Any encroachments, easements, zoning violations or nonconforming uses? ........................................... ☐ ☐ ☐
   (g) Is the property adjacent to "open range" land? ........................................... ☐ ☐ ☐
      (If seller answers yes, FURTHER DISCLOSURE IS REQUIRED under NRS 113.065)

3. Roof:
   Any problems with the roof? ........................................... ☐ ☐ ☐

4. Pool/Spa: Any problems with structure, wall, liner, or equipment? ........................................... ☐ ☐ ☐

5. Infestation: Any history of infestation (termites, carpenter ants, etc.)? ........................................... ☐ ☐ ☐

6. Environmental: Any substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, radon gas, urea formaldehyde, fuel or chemical storage tanks, contaminated water or soil on the property? ........................................... ☐ ☐ ☐

7. Fungi / Mold: Any previous or current fungi or mold? ........................................... ☐ ☐ ☐

8. Any features of the property shared in common with adjoining landowners such as walls, fences, road, driveways or other features whose use or responsibility for maintenance may have an effect on the property? ........................................... ☐ ☐ ☐

9. Common Interest Communities: Any "common areas" (facilities like pools, tennis courts, walkways or other areas co-owned with others) or a homeowner association which has any authority over the property? ........................................... ☐ ☐ ☐
   (a) Common Interest Community Declaration and Bylaws available? ........................................... ☐ ☐ ☐
   (b) Any periodic or recurring association fees? ........................................... ☐ ☐ ☐
   (c) Any unpaid assessments, fines or fees, and any warnings or notices that may give rise to an assessment, fine or lien? ........................................... ☐ ☐ ☐
   (d) Any litigation, arbitration, or mediation related to property or common areas? ........................................... ☐ ☐ ☐
   (e) Any assessments associated with the property (excluding property taxes)? ........................................... ☐ ☐ ☐
   (f) Any construction, modification, alterations, or repairs made without required approval from the appropriate Common Interest Community board or committee? ........................................... ☐ ☐ ☐

10. Any problems with water quality or water supply? ........................................... ☐ ☐ ☐

11. Any other conditions or aspects of the property which materially affect its value or use in an adverse manner? ........................................... ☐ ☐ ☐

12. Lead-Based Paint: Was the property constructed on or before 12/31/78? ........................................... ☐ ☐

13. Water source: Municipal ☐ Community Well ☐ Domestic Well ☐ Other ☐
   If Community Well: State Engineer Well Permit # Revocable ☐ Permanent ☐ Cancelled ☐
   Use of community and domestic wells may be subject to change. Contact the Nevada Division of Water Resources for more information regarding the future use of this well.

14. Wastewater disposal: Municipal Sewer ☐ Septic System ☐ Other ☐

EXPLANATIONS: Any "Yes" must be fully explained. Attach explanations to form.
13. **Water source:** Municipal ☐ Community Well ☐ Domestic Well ☐ Other ☐

If Community Well: State Engineer Well Permit #: ________________ Revocable ☐ Permanent ☐ Cancelled ☐

- Use of community and domestic wells may be subject to change. Contact the Nevada Division of Water Resources for more information regarding the future use of this well.
Questions?
Water Right Ownership
Water Right Ownership

• A water right is considered real property and can be owned separate from the property.
• Water rights are an appurtenance to the property and are passed from seller to buyer unless the rights are specifically excluded or reserved on the deed.
• Should a specific amount of water be designated in the deed and the remainder is not reserved, the entire amount remaining is included as an appurtenance.
• Specification of rate of flow does not transfer a particular volume of water (use acre-feet).
Water Right Ownership

- The owner of record noted at the State Engineer's office is the result of filing copies of deeds and a report of conveyance from the permittee to the current owner
  - The confirmation of ownership does not occur automatically when a deed is recorded in the county
  - Title companies do not research water right title and they will not issue title insurance on water right ownership.

- The ownership of stock or shares in a ditch company does not constitute ownership of a water right

- Report of Conveyance required upon transfer
  - Copies of recorded deeds and the ROC must be filed with the State Engineer to update ownership.
NRS 533.382 through 533.387 guides the State Engineer in dealing with water right title issues.

The State Engineer doesn’t assign title, he only confirms the Report of Conveyance (ROC).

The State Engineer, in all notifications, is required to notify the owner of record in the State Engineer’s office only. If ROC’s are not filed with the office, we have no way of knowing if there has been a change in ownership.
Water Right Ownership

- Major amendments to statutes in process for changing ownership in 1995 per 1994 interim study.
  - Increased responsibility of private sector
Water Right Ownership

Staff Workload

- Approximately 25% of the Carson City office’s staff is devoted to title transfer.
- Approximately 21,000 deeds which represent approximately 6,000 reports of conveyance, remain to be processed.
- Approximately 9,000 deeds and 1,650 reports of conveyances were processed in 2005.
- Receive ~2000 ROC’s per year comprising ~10,000 deeds
Report of Conveyance
(Green Form)
Abstract of Title

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Page 1 of 2
Find forms on our website
Word 6.0 or Excel Documents

Water Right Related Forms

- Water Right Application - New
  - Retrieve Form

Deed Related Forms

- Report of Conveyance
  - Retrieve Form

Dam Safety Related Forms

- Dam Application
  - Retrieve Form

Waiver Related Forms

- Monitor Well (MO) Waiver
  - Retrieve Form

Well Driller Related Forms

- Well Driller's License Application
  - Retrieve Form

Miscellaneous Forms

- Monthly Pumpsage Report Form
  - Retrieve Form

Press this button
Retrieve the form that is needed
Quick Links:

- NEW: INTERMEDIATE ORDER AND HEARING NOTICE ON LAS VEGAS VALLEY WATER DISTRICT'S APPLICATIONS IN SPRING VALLEY
- Legislative Council Bureau Draft of Proposed Additions To Well Drilling Regulations
- Proposed Orders for Dayton Valley and Stagecoach Sub-Area
- WATER RIGHTS DATABASE NOW ONLINE!!!

Please Note: This page uses Java. Please Click Here to automatically download Java for MS Internet Explorer if you can’t see the menus on the top and left.

Questions? Comments? Requests? Email The Webmaster
Is There a Water Right on the Parcel?

• Present owner has information

• Check http://water.nv.gov

• Call the Division of Water Resources
### Summary of Ownership

**TRUCKEE RIVER OWNERSHIP SUMMARY**

Truckee River Claims No. 179½/206/259

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<th>Ac. Ft.</th>
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**Totals:** 397.00 1.880 93.20
Maps on the Website

- Shows historically irrigated acreage
- Indicates which claim from the decree
- Use Assessor’s parcel number
WHY WERE THESE MAPS DONE?

• More than 40,000 acres of water rights under the decree
• The Decree provided tabular data only; no detailed maps to support the tables
• Ownership left to interpretation
• Interpretation leads to arguments
• Water rights are valuable
Find Maps on our Website
Maps Need to Be Updated to Reflect New Appropriations
Acreage is broken down by claim on each parcel
WHAT’S IN THE FUTURE?

- GIS Coverages
- New Maps Use the Washoe County Parcel Base
- Integrate with Other NDWR Data
  - Permit Files
  - Application Maps
  - Well Log Data
  - Water Rights Locations
Questions?
Maintaining a Water Right
Maintaining a Water Right

Once a permit has been issued, conditions are imposed in order for that water right to be perfected.

- Time frames for
  - proof of completion of diversion works
  - placing the water to beneficial use
Maintaining a Water Right

What if the permittee can’t meet these deadlines?

– Extensions of time can be filed (533.380)
– The extension must be filed within thirty (30) days from the date of final notice for filing of the proof
– The extension, if accepted, is good for a maximum of 1 year
– Filing fee
Certificate of Appropriation

Once the proofs have all been filed and the other terms of the permit complied with, the State Engineer prepares a Certificate of Appropriation describing the use to be made of the water as shown on the Proof of Beneficial Use. The State Engineer records the Certificate in his office, with a copy going to the permit holder. (533.425)

Beneficial use - shall be the basis, the measure and the limit of the right to the use of water. (533.035)
Maintaining a Water Right

Forfeiture and Abandonment

Two (2) ways to lose a certificated water right (533.060 and 534.090)

– forfeiture
– abandonment

Until 1999, a surface water right could be forfeited. An amendment to NRS 533.060 removed this provision, which removed any possible forfeiture of a surface water right.
Abandonment (533.060)

A review of whether or not a surface water right has been abandoned is based on a review of a variety of records within a 10-year period immediately preceding any claim that the water right has been abandoned. These records include:

a. That there has been delivery of water;
b. Payments for maintenance were incurred in the delivery of water;
c. Payments for costs of capital improvements; or
d. Maintenance was made as it is related to the delivery of water.
Maintaining a Water Right

Forfeiture (534.090)

- Forfeiture of a groundwater right occurs if there is a failure to use the water right for 5 consecutive years.
- Can file an extension of time to prevent forfeiture. Extension must be submitted prior to the 5 consecutive years of non-use.
- The State Engineer is required to give a notice to the owner of record in the State Engineers office after 4 years of nonuse in basins where inventories are conducted.
- The State Engineer may grant any number of extensions of time, but a single extension must not exceed one year.
Maintaining a Water Right

All of the previously mentioned criteria requires a decision to be made by the State Engineer. The provisions of NRS 533.450 allows “any person feeling himself aggrieved by any order or decision of the State Engineer…” may file an appeal in the proper court of the county “…in which the matters affected or a portion thereof are situated.”

This appeal to the court must also be served on the State Engineer within 30 days following the issuance of the decision.
Thank You,
Questions?

http://water.nv.gov