

1 **JOINT RESOLUTION APPROVING NOTES TO**
2 **WATER RIGHTS ADDENDA**

3 2019 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Derrin R. Owens**

6 Senate Sponsor: Ralph Okerlund

8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature adopts notes to water rights addenda to deeds.

11 **Highlighted Provisions:**

12 This resolution adopts:

- 13 ▶ the notes to water rights addendum to land deeds; and
- 14 ▶ the notes to water rights addendum to water deeds.

15 **Special Clauses:**

16 None

18 *Be it resolved by the Legislature of the state of Utah:*

19 WHEREAS, it is the intent of the Legislature of the state of Utah that the state engineer
20 shall use and distribute to a county recorder's office the water rights addendum to land deeds as
21 described in Section [57-3-109](#); and

22 WHEREAS, it is the intent of the Legislature of the state of Utah that the state engineer
23 shall use and distribute to a county recorder's office the water rights addendum to water deeds
24 as described in Section [57-3-109](#):

25 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
26 adopts the notes to the water rights addendum to land deeds incorporated by reference in, and
27 attached to, this joint resolution.

28 BE IT FURTHER RESOLVED that the Legislature of the state of Utah adopts the notes
29 to the water rights addendum to water deeds incorporated by reference in, and attached to, this

30 joint resolution.

31 BE IT FURTHER RESOLVED that the Legislature of the state of Utah directs the chief
32 clerk of the Utah House of Representatives to send a copy of this joint resolution, the notes to
33 the water rights addendum to land deeds, and the notes to the water rights addendum to water
34 deeds to the state engineer for distribution.

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 changes or extensions regarding the water right. You are encouraged to conduct proper "due diligence" research into any water right before purchasing it.

- N1 Once this Water Rights 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 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: (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.
- 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 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 Section A is being completed, 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.
- 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 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 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 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 Grantee's name. If another procedure is to be followed, that should be noted on the "Other water related disclosures" line in Section C 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.
- N7 If culinary water service is currently being provided to the Grantor's Parcel by a municipality, a water 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.
- N8 If outdoor/secondary/irrigation water service is currently being provided to the Grantor's Parcel by a municipality, a water 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 what water IF ANY is available for use on the Grantor's Parcel.
- N10 This space should be used for any other information that the Grantor has which is relevant to water issues associated with the Grantor's 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

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.

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