

# HB355 Water General Adjudication Amendments

*Resolving Conflict / Securing a Future*

## What is Behind this Bill?

The concerns which led to the bill were raised in the Utah Water Task Force this past year. The Task Force discussed the concerns and unanimously supported statutory changes proposed.

## Background

Water right general adjudications have been in process for years. Completion of the adjudications is critical to water certainty. Recently, statutory revisions have been introduced to modernize the adjudication statute, improve the efficiency, and provide clarity which is helping to speed the process. This bill is another step in the modernization of the statute and will help adjudications move to completion and reinforce their finality.

## Issues

Water right general adjudications are a statutorily described judicial process intended to bring all water right claims in an adjudication area to a conclusion and create an accurate record of rights. The adjudications are very large judicial cases which potentially join every person in a river basin. Notice and service provisions are extensive and during the process issues arise which are litigated or resolved between parties. This bill clarifies process regarding three issues:

- The water right statutes were amended several years ago to allow reinstatement of lapsed applications for single domestic use for an unlimited period after the lapsing provided the home was occupied prior to the lapsing. That modification is now creating uncertainty in general adjudications since they represent an outstanding water right claim exempt from filing requirements of the adjudication statute. This bill proposes a limit on reinstatement of applications lapsed prior to the adjudication notice and summons process if a claim is not filed in the adjudication.
- The state engineer is required under the adjudication statute to initially notice and summons every person believed to have a claim. The state engineer satisfies this requirement by sending written notices to water right owners of record and property owners of record. Notice is also published in the newspaper. All claimants are required to timely file their claims. The process as described in Section 73-4-22 requires the state engineer to file a second summons by advertising in a newspaper for another five weeks after exhaustion of notice to all known claimants. Because of other



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process changes which have occurred, notably the publication of a list of unclaimed rights, the timing of second summons and binding effect of the summons requires further clarification. This bill clarifies second summons should be issued following the publication of the list of unclaimed rights and specifies the exact language of the notice which is to be published.

- Recently the Utah Supreme Court issued a decision on litigation to resolve an objection which occurred during a general adjudication. The court reviewing the current adjudication statute has expressed the opinion that appeals on the resolution of objections were not ripe since the final order on the entire general adjudication has not issued. Leaving these issues unresolved in such a large judicial process creates uncertainty which will only prolong the process. The bill proposes statutory clarification that final court orders on resolution of objections are appealable.

—Published February 21, 2019

