

Domestic Wells and Water: Update

10/5/2016 By David Mansfield, with thanks to Steve Stough

There was a big uproar and a lot of information a short while back about the State taking away the water in your well. I will attempt to sort this out as best as I can. I encourage everyone, including those with wells, to pay attention to this legislation as it will have far reaching effects.

The water in your well is part of your property and property rights. The only legal way it can be taken is for the State or Government Agency to invoke “eminent domain” and fairly reimburse you for what was taken. In my opinion, this is not likely to happen. Right now, the State Engineer can exercise his right to ‘Curtail’ use in a given basin. The ‘Curtailment’ would apply to all users in a given geologic basin, homeowners included. If the State Engineer were to exercise this right, then it would effectively shut down all domestic wells. As you could imagine, chaos would ensue, lawsuits and I’m sure, just plain disobedience by homeowners. The State Engineer did try a ‘Partial Curtailment’ in Smith Valley last year and the Supreme Court said no, the Curtailment has to be all-or-nothing.

We are in this situation because the State Engineer allocates water rights to individual parcels. In theory, all properties wouldn’t use 100% of their legal water all the time. The State Engineer knows this and issues more rights than water to make the residents happy, encourage building, etc. Commodities like water and roads, for instance, are used by all of us, in a shared way. Imagine though, if everyone drove their cars on the road at the same time. It would not be good. We all use our commodities in pulses, and it works most of the time. Water over-use is happening now and domestic wells are going dry in Mason, Smith, and Diamond Valleys and in parts of Douglas, Nye and Washoe Counties.



On August 26th, the Nevada Legislature formed a subcommittee to address the problem. In the meeting in Carson City, over 700 residents showed up to express opinion. The State Engineer would like new legislation to allow him to perform a partial curtailment of junior water rights holders. Junior holders would for the most part, be private subdivided land holders, like you and me. Our water rights were granted to us when we purchased our 1-acre (or more) piece of land. If the State Engineer were to invoke a ‘Partial Curtailment’ it would permit household water use and livestock/pets only – no landscaping at all. He would make the determination based on the hydrologic basin allocation of water versus the USGS water recharge rate for that basin. He could determine that the basin is a Critical Management Area (CMA), if the basin is over allocated. That would be when the Curtailment or Partial Curtailment would start.

Here’s how the over-allocation sits right now:

- Basin 94, Bedell Flat up to the summit of Red Rock Road on the west. Not currently over-allocated, unlikely to be over-allocated unless all the lots are built out, in which case the area would be over-allocated by about 200%.
- Basin 95, Dry Valley except for a little piece near the very north end. Over-allocated 110%.
- Basins south of the summit of Red Rock Road. Silver Knolls, Columbia Hill Estates, American Flat, Lemmon Valley. These are all 300% over-allocated. The State Engineer has already declared these areas to be “Severely Over-appropriated.”

The full Summary of Recommendations can be found on the internet at: www.leg.state.nv.us/App/InterimCommittee/REL/Document/8877

Please check back on SilverKnolls.org – any further updates will be posted there.