

Conjunctive Surface and Groundwater Management in Utah

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Statutory Law

- Public Ownership - “All waters in this state, whether above or under the ground, are hereby declared to be the property of the public. . . .”

Utah Code Ann. § 73-1-1(1).

- Administration - New water rights and water right changes are regulated through a permit system administered by the State Engineer – process is basically the same for surface and groundwater.

Utah Code Ann. §§ 73-3-1(1), -3(2).

Statutory Law (cont.)

- Priority - “Between appropriators, the one first in time is first in rights.”

Utah Code Ann. § 73-3-1(5)(a).

- Enforcement – The State Engineer is authorized to initiate an enforcement action if an appropriator is diverting, impounding, or using water without a water right or in violation of an existing water right.

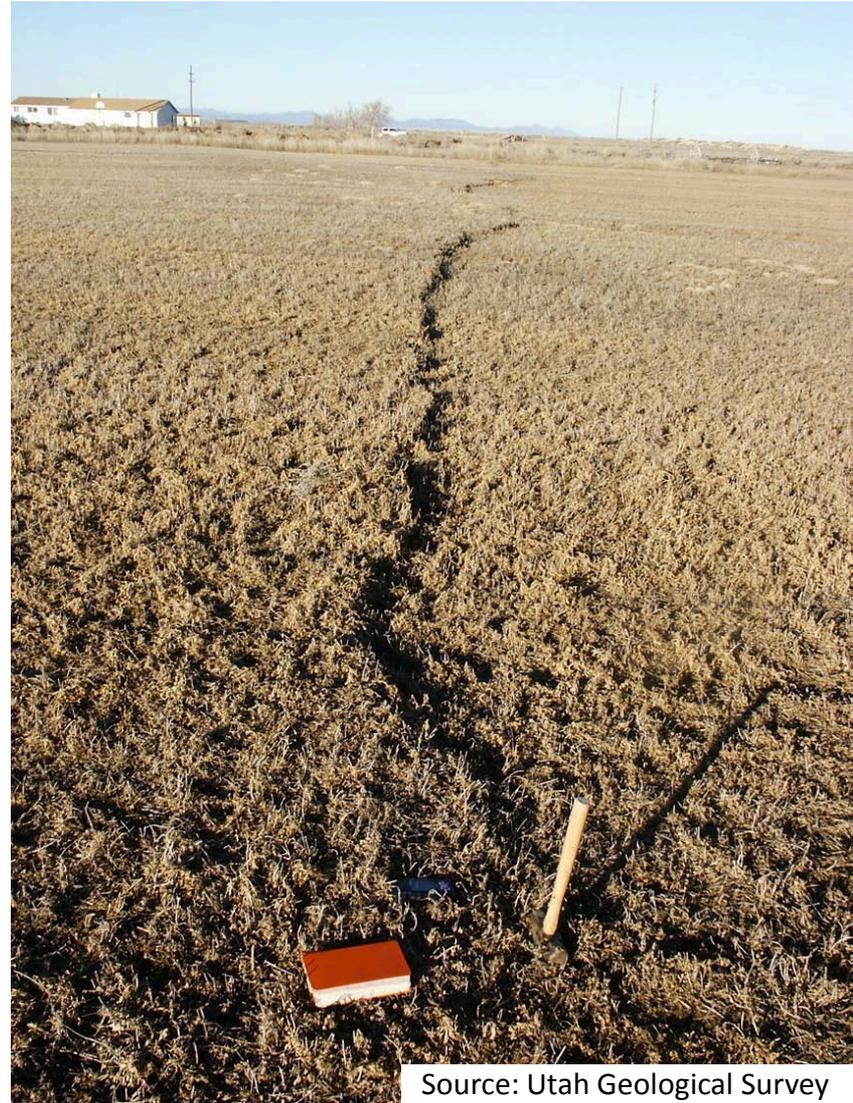
Utah Code Ann. § 73-2-25(2)(a).

Groundwater Recharge & Recovery Act

- Enacted in 1991 in response to the the Jordan Valley Water Conservancy District's storage and recovery proposal.
- No entity may artificially recharge a groundwater aquifer or recover water from an artificially recharged aquifer without first obtaining a recharge permit. Utah Code Ann. § 73-3b-103.
- Intended to facilitate conjunctive management projects.

The Beryl-Enterprise Area

- Withdrawals $\approx 80,000$ AF/Y
- Recharge $\approx 33,000$ AF/Y
- Water table has dropped by up to 110 feet
- 2-4 feet of ground subsidence
- Multiple surface cracks – up to 1/4 mile long and up to 5 feet across



The Beryl-Enterprise Area (cont.)

- Voluntary Agreements
 - Water users may pool water rights and share the burden of reductions proportionately.
 - “[A]doption of a voluntary arrangement . . . by less than all of the water users in a groundwater basin does not affect the rights of water users who do not agree to the voluntary arrangement.”

Utah Code Ann. § 73-5-15(4)(c)(iii).



Water Code / Groundwater Recharge & Recovery Act Amendments

- Authorizes local districts to acquire and hold groundwater rights within critical groundwater management areas and retire those rights to reduce groundwater mining.
- Empowers local districts to levy assessments to facilitate groundwater management planning and water right acquisition.

Water Code / Groundwater Recharge & Recovery Act Amendments (cont.)

- Authorizes local districts to acquire and hold surface water rights for aquifer recharge projects.
- Declares that within a critical groundwater management area artificial recharge by a local district is a beneficial use.

Parting Thoughts

- Response is bottom-up – Code revisions were generated by the Executive Water Rights Taskforce
- General reluctance to litigate

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