

Update from Utah -

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This past year:

Updates/Changes to policies – status, cert of service, title

New Database – group number

Coordinated Efforts – ADJ & APP

Published five new PD

books/Addendums

Working on four new PD books

and four Addendums

Two topics of interest we have been handling this past year –

Sub-Basin Claims

Teresa Wilhelmsen

Return Flows from Import Water

Ward Wagstaff

Sub-Basin Claims....

- Work on Sub-basin claims have been occurring in Utah since the early 90s
- BLM & FS submitted information as a result of these discussions in the Sevier River Area, but no official claims filed.
- Adjudication Sub-Basin Claim Policy is dated August 2002
- Modifications to the 2002 policy discussed in this presentation are **red**.

The Theory....

Simplified Look:



The Purpose...

- Simplify the process for taking and preparing claims
- Use based on a stationary boundary
 - geographical vs allotment
- Reduce multiple counting of livestock

Who can file them?

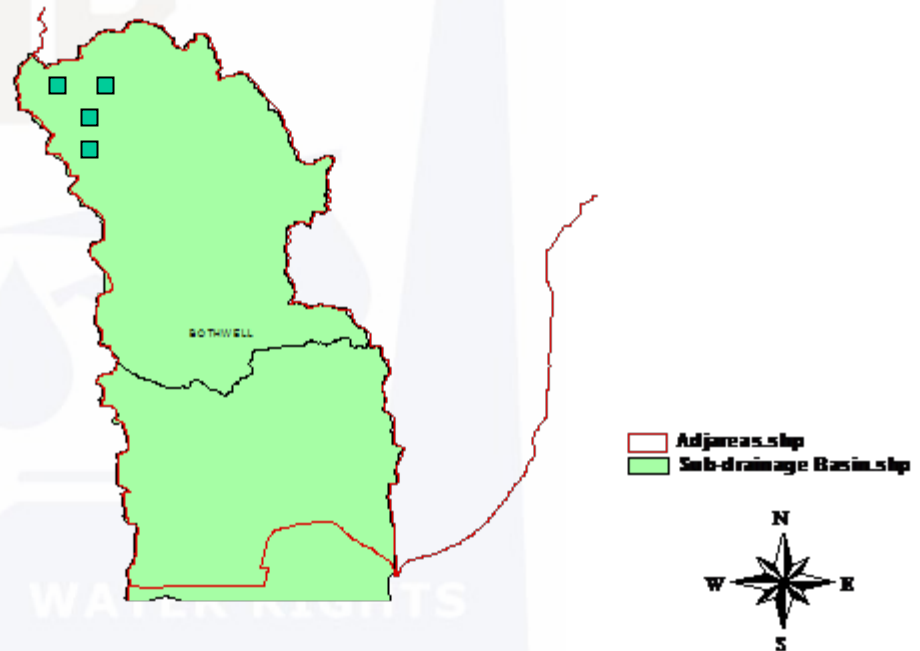
- Agencies administering public lands
 - Forest Service
 - BLM
- Private and other state agencies
 - Deseret Land and Livestock
 - Trust Lands Administration
 - Decision on exceptions made by Program Section Offices and the Regional Office

A Claim Contains....

– Place of Use

- A sub-basin claim describes the entire sub-drainage basin area as the Place of Use for a water right.
- Only for the land owned, excludes lands owned by others
- **POU = “Claim’s described boundary”**

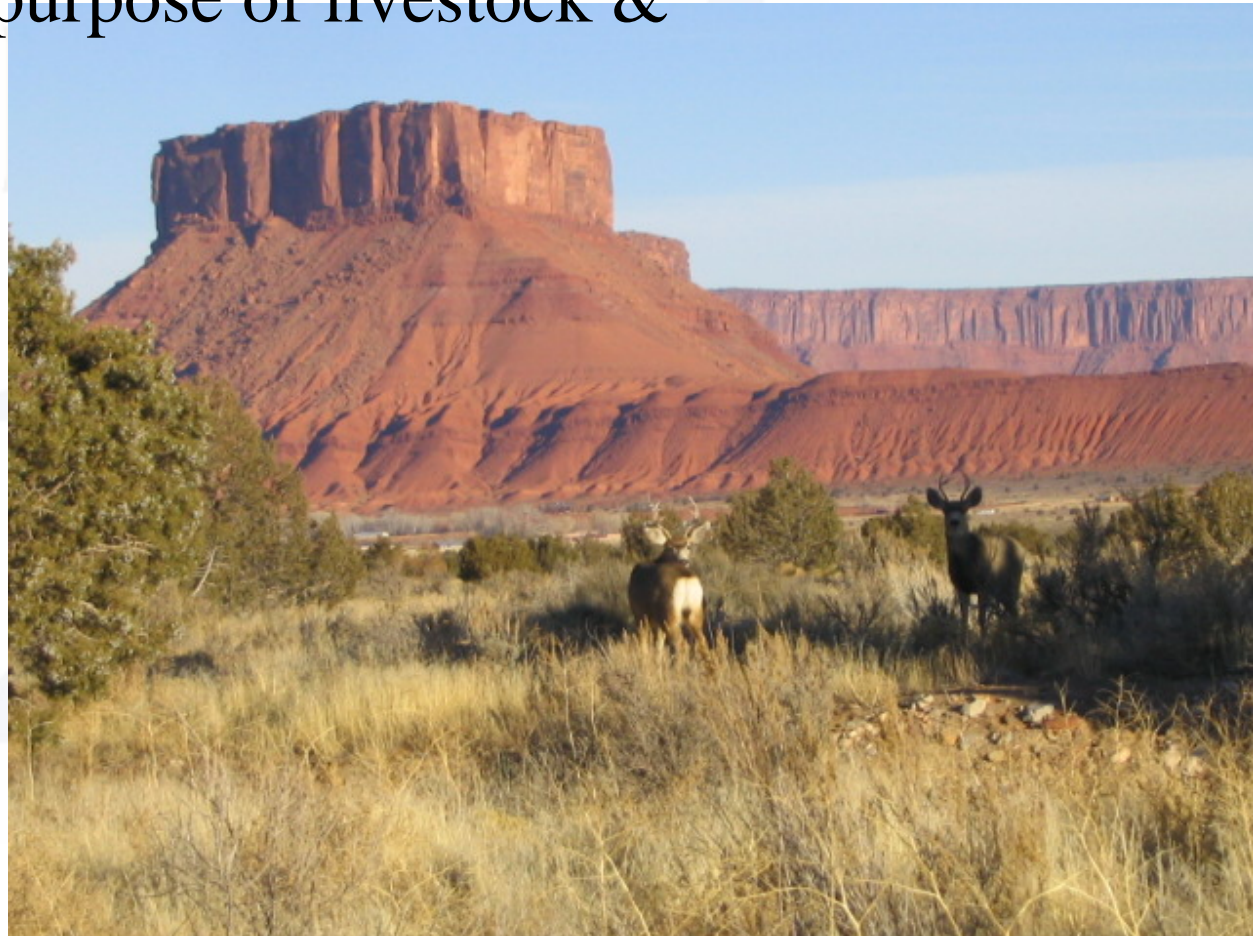
29-5 Bothwell



A Claim Contains....

– Uses

- Only for the purpose of livestock & incidental wildlife watering



A Claim Contains....

– Points of Diversion

- Includes all water sources within the Claim's described boundary
- Except for wells and large ponds
 - Large ponds have a surface area greater than 900 ft² and a depth greater than 5 feet
- A list of water sources within the boundary that have been given official names **may** be submitted.
- Minor diversions – not necessary to document
 - guzzlers, stock troughs, small ponds and springs

A Claim Contains....

- Priority Date & Beneficial Use Quantity
- Priority based on the earliest livestock use that can be documented in the sub-drainage basin or watershed area.
- Quantity based on the number of livestock (wildlife is incidental), not a flow rate or volume of water.
- The quantity is based on the lesser of the optimum use level or historic high.

A Claim Contains....

– Period of Use

- Period of Use will be determined based on the optimum use levels developed by the agency administering the public land.
- The period of use will show specific dates or indicate year-round use with a limit on the total days of use per year.

Sub-basin Claims compared to Federal Reserve Rights

- A Federal Reserve Right reserves waters for the use and benefit of federally reserved lands.
 - National Parks, Indian Reservations, etc.
- A Sub-basin claim reflects actual usage of water as established under Utah law.
 - Perfected water rights – diligence claims, certificated right, etc.

Sub-basin Claims compared to other claims (WUCS & Diligence)

- No more or less legal protection than would be provided by individual claims on each water source within the Claim's described boundary.
- They do, however, provide an increased assurance all water sources, except wells and large ponds, have been included as PODs.

Sub-basin Claims – How to...

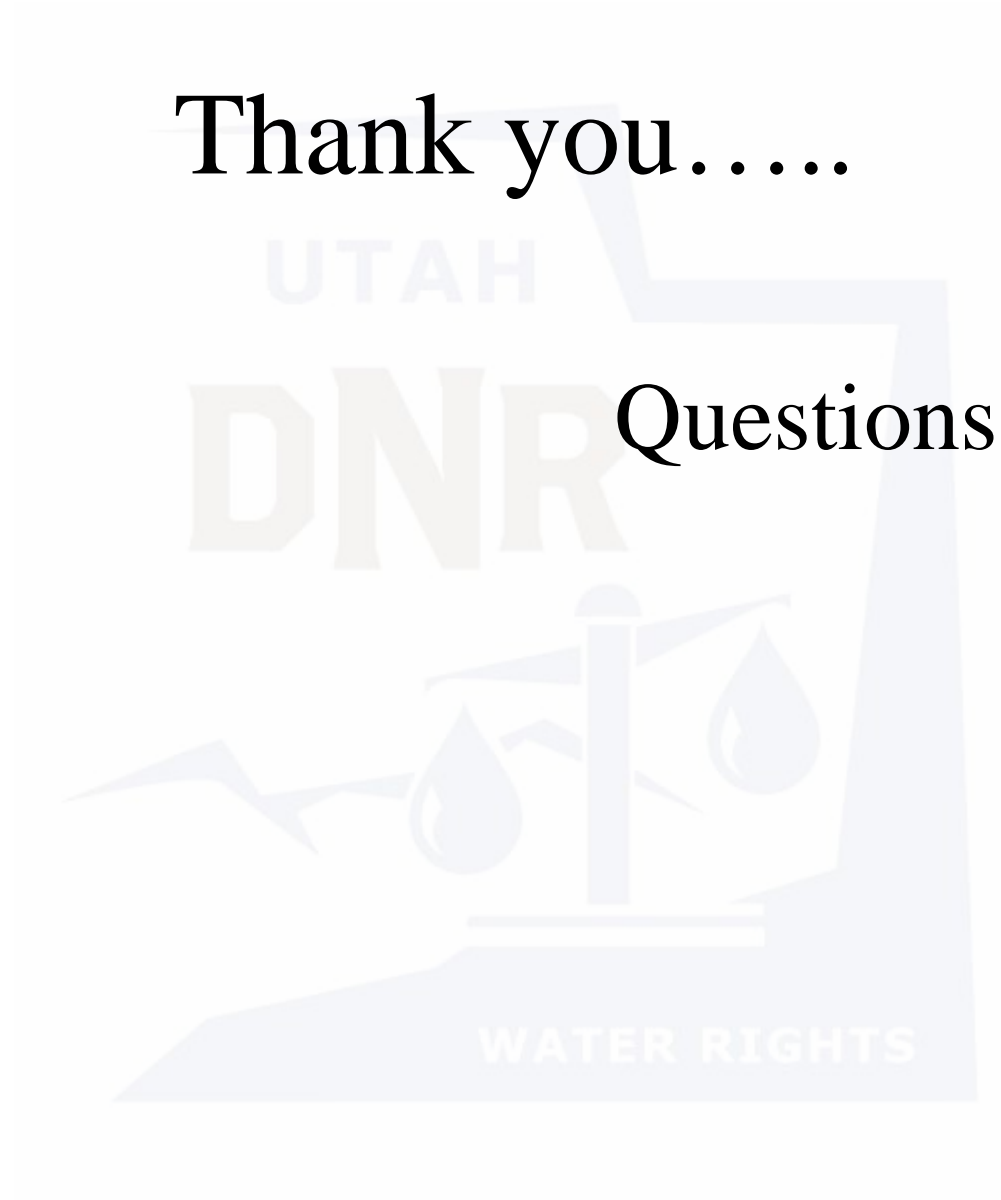
- Identify the Sub-basin Boundary (Claim's described boundary)
- Identify rights of record in the area
- Separate rights for wells, large ponds and other uses
- Optimum number of livestock and wildlife that may be sustained and historic high use
- Document how the optimum was determined
- Supporting information for priority date

Administration of a Sub-basin Claim

- Change applications
 - If based on perfected right – diligence claim
 - Nature of use altered, large pond, or new well
 - Minor diversions – no change required
- Considered appurtenant to Claim's entire described boundary
- Land Exchange – claim reduced

Thank you.....

Questions????



Return Flows from Imported Water

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