



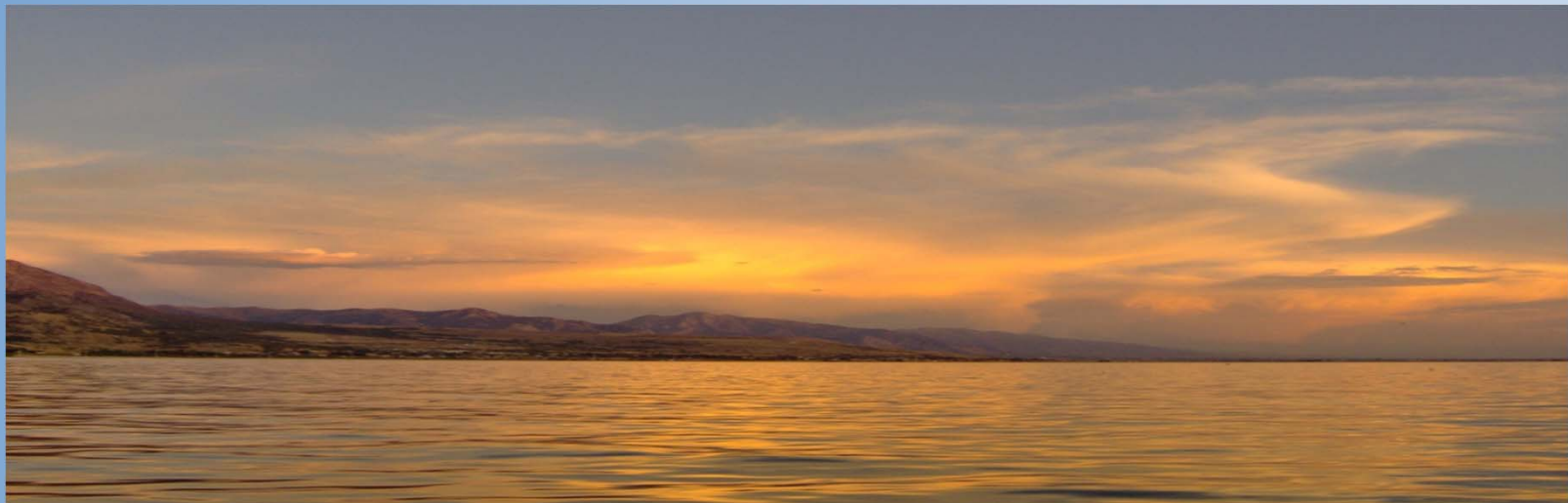
Water Right Cancelations

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Utah History

- ❖ 1897 - State Engineer's Office established
- ❖ 1903 - Surface water appropriation
- ❖ 1935 – Groundwater appropriation



Utah Law

- ❖ All water in the state is property of the public.
- ❖ Divert water to beneficial use
- ❖ Priority date
- ❖ “First in time, First in right”
- ❖ Loss of right
- ❖ Right acquired by application



Utah Practice

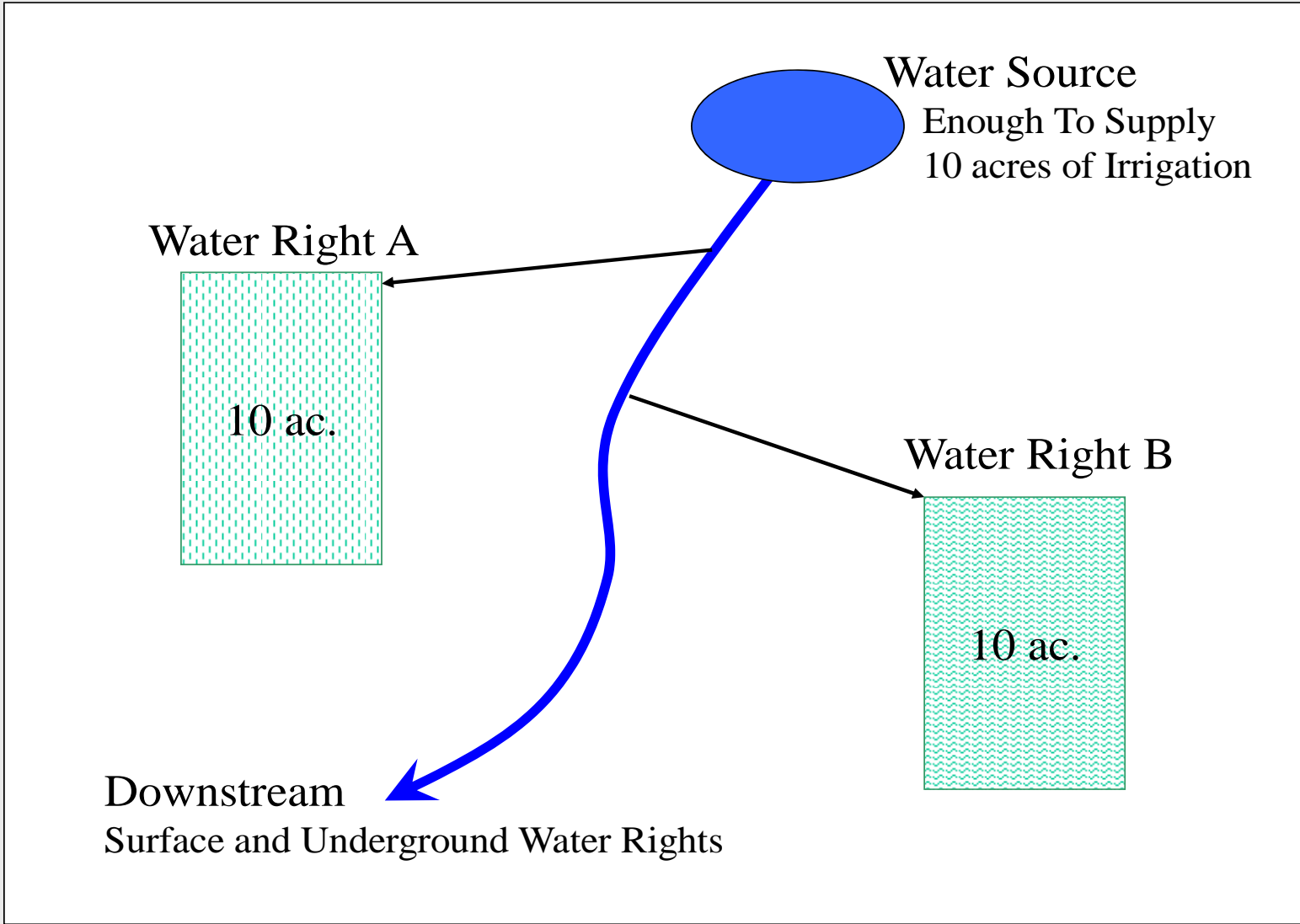
- ❖ The State Engineer approved rights to more water than was available
 - ❖ Maximize Beneficial Use
 - ❖ Lack of information
- ❖ Distribution
 - ❖ Fully Appropriated
 - ❖ Curtailment





Change Applications

- ❖ Allowed under State Law
- ❖ Priority Date
- ❖ State Engineer Practice
 - ❖ Limit to the Historic Use
 - ❖ Loss to Nonuse



Forfeiture

❖ Pre 1996

If water not beneficially use for a period of 5 year it was considered forfeited, it ceased to exist, and it reverted to the public and was available for appropriation unless a nonuse application was filed.

❖ In 1996

the law changed to indicate that the forfeiture of a water right had to be a judicial action and if you had been using your water for a period of 15 years, the right was not subject to forfeiture. But it still said if you didn't use your water for 5 years the right ceased.

Forfeiture

❖ 2008

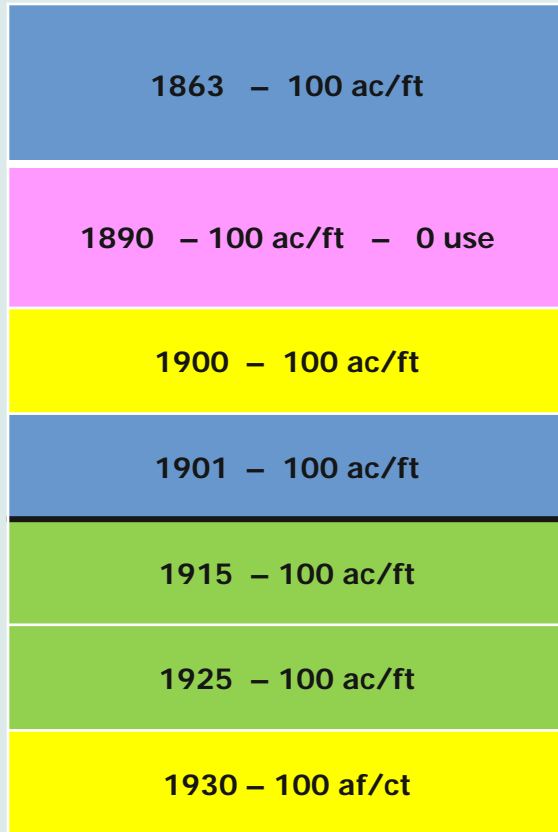
- Nonuse Exemptions
- Intent Language
- State Engineers Concern

❖ 2011

- Jensen V Jones
- State Engineer can not look at Nonuse



Dilemma



Hypothetical Mill Valley Water System

~ 400 acft/year

- Blue** – Used Every Year
- Pink** – Not Used for Decades
- Yellow** – Rarely Used
- Green** – Used When Available

What Now

- ❖ Currently Holding
- ❖ Options
 - ❖ Approve and Distribute by priority
 - ❖ Initiate Court Action
 - ❖ Change the Law giving State Engineer Authority

How to Change The Law

- ❖ State Engineer look at nonuse during Change
- ❖ Separate nonuse process – Audits (Nevada)
- ❖ Adjudication
- ❖ ??????