



To: Erin Light, Division Engineer, Division 6  
Tracy Kosloff, Deputy State Engineer, Intrastate Water Supply and Litigation

From: Kevin G. Rein, State Engineer

Subject: Over Appropriation of the Yampa River above the Confluence with the Little Snake River

Date: January 19, 2022

### **Background**

On March 17, 2021, Erin Light submitted a letter request to me on the subject of Designation of the Yampa River as Over-Appropriated (“Report”). The Report contains climate, hydrologic, and administrative call information to support a description of the Yampa River and its tributaries upstream of its confluence with the Little Snake River as over-appropriated and requests that I make a formal determination that the Division of Water Resources (“DWR”) designate that reach of the river and its tributaries as over-appropriated and treat them accordingly for the purposes of administration. For the purposes of the DWR’s administration and well permitting decisions, a stream is considered over-appropriated when “at some or all times of the year, the water supplies of said stream system are insufficient to satisfy all the decreed water rights within that system”<sup>1</sup> (“Over-Appropriated”). The Report is comprehensive and shows that the Yampa River upstream of the confluence with the Little Snake River is Over-Appropriated. The Report is available for review at [this link](#).

### **Designation**

Based on my review of the Report, I have determined that, effective March 1, 2022, the reach of the Yampa River upstream of the confluence with the Little Snake River, including all of its tributaries, as more clearly shown on Attachment A (“Affected Area”), is Over-Appropriated. My determination (“Designation”) recognizes the climate, hydrologic, and administrative call conditions that are now present on the Yampa River for the Affected Area. The Designation does not impact the legal ability to appropriate water from the Yampa River nor does it change administration of surface water rights on the Yampa River.

The purpose of the Designation is to provide the formal basis for DWR to consider the injurious impacts of wells during DWR’s evaluation of new applications for well permits.

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<sup>1</sup> See DWR *INTERNAL GUIDELINES FOR DESIGNATION OF STREAM SYSTEMS AS OVER-APPROPRIATED*, May 8, 2013.



## Evaluation of Well Permit Applications

### For applications for new well permits or permits to expand the use of existing wells.

Beginning March 1, 2022, DWR staff will treat the Affected Area as Over-Appropriated for the purpose of evaluating applications, filed on or after March 1, 2022, for new well permits or permits to expand the use of existing wells.

### For applications to permit existing wells, where the well and its uses existed prior to March 1, 2022.

To allow a reasonable period of time for the owners of existing wells to obtain a well permit, for wells where the well owner can demonstrate that the well and its uses existed prior to this Designation date of March 1, 2022, DWR will accept applications to permit those existing wells and evaluate the applications without treating their impacts as injurious through December 31, 2022. Such wells may include but are not limited to pond wells or other structures that expose groundwater to the atmosphere. For applications for such existing wells filed on or after January 1, 2023, DWR staff will consider the injurious impacts from those existing wells for the purpose of evaluating the applications.

For these two categories of well permit applications, effective on the dates shown above, DWR staff will presume that the well will materially injure the vested water rights of others and the well permit application must be denied unless the well qualifies for a statutory presumption of no injury or other provision in statute, alone or in combination with State Engineer Policy and/or Guideline, or the well permit applicant has obtained a plan for augmentation decreed by the water court or a substitute water supply plan approved by the State Engineer.



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Kevin G. Rein  
State Engineer, Director



### ATTACHMENT A

Area that is newly designated as Over-Appropriated shown in yellow

