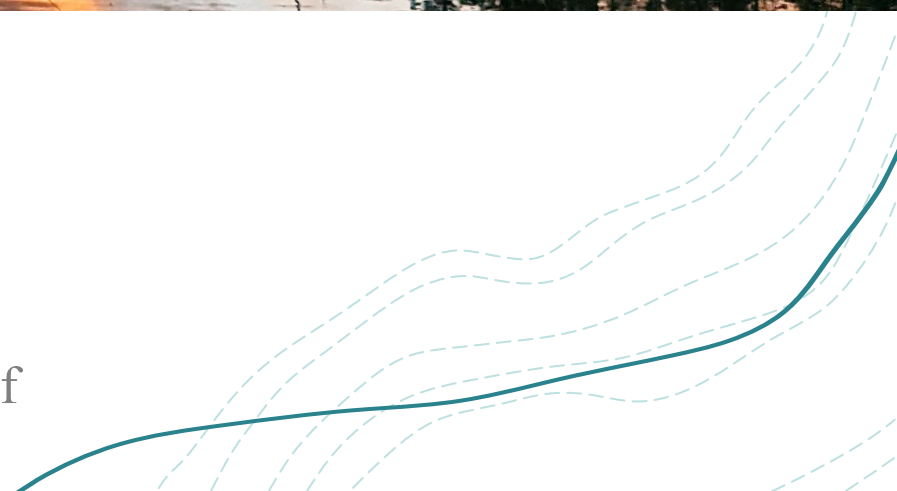




HB 520: PONDS

Nathaniel Ward

DNRC Water Rights Bureau Chief



PONDS AND WATER RIGHTS

All beneficial uses of water require a water right: including any man-made open-storage of water

Ponds are treated as a place of storage on all water rights

All places of storage need a water right

Pond can be filed on a new water right

- Permit (85-2-311)
- Exception to the permitting process
 - Groundwater ponds (85-2-306(3))
 - Stockwater ponds (85-2-306(6))

Pond can be added to an existing water right

- Change authorization (85-2-402)

GROUNDWATER PONDS (85-2-306(3))

- Can file on a pond filled by a well or a developed groundwater pond
- No opportunity for public notice or objections
- No adverse effect analysis
- Applicant identifies beneficial use of the pond
- Volume assigned to the pond (plus any other uses) cannot exceed 10 AF
 - Developed groundwater ponds
 - Pond capacity + evaporation + any diversion from pond cannot exceed 10 AF
 - Wells filling pond
 - Cannot exceed 10 AF per year put into pond
 - Could be less if there are other uses from the well (domestic, L&G, etc.)
 - Well flow rate cannot exceed 35 GPM

STOCKWATER PONDS (85-2-306(6))

- Limited to stock use
- Surface Water on nonperennial stream
- Maximum capacity of pond is less than 15 AF
- Total annual appropriation is less than 30 AF per year
 - Calculated based on pond capacity plus number of fills
- Must be constructed on a parcel of land 40 acres or larger that is owned or under control by the applicant
- Must be filed on within 60 days of construction
- There is an opportunity for hearing if a water user feels they are being adversely affected

PONDS ON A PERMIT (85-2-311)

- Source of water could be surface water or groundwater
- Pond size is based on the beneficial use
- Ponds can be used for multiple beneficial uses
 - Stock, fishery, irrigation, recreation
- Review of all permit criteria
 - Physical availability
 - Legal Availability
 - Adverse Effect
 - Beneficial Use
 - Adequacy of Diversion
 - Possessory Interest

PONDS ON A CHANGE

- Source of water could be surface water or groundwater
- No existing limitation to the type of water right
- Can increase size of an existing pond or add a new pond as part of a change application
- Must identify the capacity of the pond
- Applicant must justify the size and beneficial use of the pond as part of criteria assessment
- As part of adverse effect criteria, DNRC must assess whether the pond will lead to enlargement of the water right
 - Diverted flow rate, diverted volume, and consumed volume cannot increase under the change.