



CENTRAL NEVADA REGIONAL WATER AUTHORITY
POLICY STATEMENT ON
PUBLIC WATER RESERVE NO. 107
Adopted January 13, 2023

BACKGROUND

On April 17, 1926, upon the recommendation of Secretary of Interior Work, President Calvin Coolidge signed Public Water Reserve No. 107. This withdrawal, unlike its predecessors, did not specifically identify the public lands being reserved. It was a "blanket" withdrawal. The order read:

Under and pursuant to the provisions of the act of Congress approved June 25, 1910 (36 Stat. 847), entitled "An Act To authorize the President of the United States to make withdrawals of public lands in certain cases," as amended by act of Congress approved August 24, 1912 (37 Stat. 497), it is hereby ordered that every smallest legal subdivision of the public-land surveys which is vacant unappropriated unreserved public land and contains a spring or water hole, and all land within one quarter of a mile of every spring or water hole located on unsurveyed public land be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for public use in accordance with the provisions of Section 10 of the act of December 29, 19J6 (39 Stat. 862), and in aid of pending legislation.

When PWR 107 was transmitted to President Coolidge it was accompanied by a letter from Secretary of Interior Work that read:

The control of water in the semiarid regions of the west means control of the stated surrounding grazing areas, possibly in some regions of millions of acres, and in view of the pending bill to authorize the leasing of grazing lands upon the unreserved public domain, it is believed important to retain title to and supervision of such springs and water holes on the unreserved public lands as have not already been appropriated. Private parties have used various lieu selection and scrip acts as a vehicle of acquiring small areas around these springs and water holes, thus withdrawing them from the common use of the general public, this prime essential to stock grazing, and for this reason, as well as the pendency of the grazing legislation mentioned, it is believed advisable to make a temporary general order of withdrawal.

Not only were the locations of springs and water holes included in the reserves not specified at the time PWR 107 was issued but also the quantity of water reserved was not identified. The United States Geological Survey (USGS) began conducting surveys to designate PWR 107 waters but because the Department of the Interior had not defined the amount of water needed to qualify a water source as providing enough water to be reserved, the USGS adopted a case-by-case determination of what was large enough. This left the actual definition of a source reserved under PWR 107 unclear.

The Nevada State Engineer has established criteria that should be determined in considering whether a claim of a PWR 107 reserved right may have validity. And the Legislature's 2015-2016 Interim Public Lands Committee voted to send a letter to the Office of the State Engineer requesting that the Office review all claims for water by the BLM and other federal agencies and immediately dispose of those claims that clearly do not meet the criteria of a Public Water Reserve No. 107.

CENTRAL NEVADA REGIONAL WATER AUTHORITY POLICY

It is the policy of the Central Nevada Regional Water Authority that Public Water Reserve No. 107 should be revoked by executive order for the following reasons:

- *The purpose of PWR 107 was to reserve water for public use and appropriation as a source for permittees under the Taylor Grazing Act. The purpose for which PWR 107 lands were reserved was relatively narrow and specific, which was to assure that no person could monopolize or control a large territory by locating as a homestead the only available water supply for stock in that vicinity and for the general public purposes of human and domestic animal (stock) consumption. With passage of the Taylor Grazing Act of 1934 and the advent of grazing allotments controlled by the Bureau of Land Management such competition has been eliminated and under the current system, only authorized range users possessing a grazing permit issued by the BLM are authorized on designated allotments.*
- *Congress has long recognized state primacy over water rights. Nevada law (NRS 533.503) limits the appropriation of water for the purpose of watering livestock only to permit applicants who are legally entitled to place livestock on the lands for which the permit is sought, and who own or have an interest in the livestock.*
- *The federal government's claims to water reserves are subject to adjudication in state courts, however, reserved water rights do not expressly mandate the BLM to file a claim with the state. This leaves the federal water claims uncertain and confounds the adjudication of water rights in certain basins.*

- *Public lands offer opportunities for multiple use and development including energy and resource extraction. However, other uses or access could be in direct conflict with existing PWR 107 reserved waters because their locations and amount of reserved water rights are unknown.*
- *PWR 107 relies upon springs and seeps in a semiarid region that have not all been identified. With prolonged drought and changes in precipitation and snowpack, it is unclear whether a once-designated water source will continue to flow, let alone provide enough water to remain important under PWR 107.*
- *PWR 107 water claims can disrupt other historic uses of the land.*
- *The Department of Interior and Bureau of Land Management have failed to develop a complete inventory or comprehensive policy toward public water reserves which compromises the effective and efficient management of Nevada's water resources.*
- *PWR 107 was intended to be temporary and not statewide. States that had abundant water sources or less stockwatering demand, where water reservations would serve little purpose, were eventually exempted by executive order and agency rules from the PWR 107 reserves. The exemption indicated that not all public domain was withdrawn and reserved simply because there was a spring that could function as a public water reserve.*