Water and Natural Resources Committee

Implementing the NM Cannabis Regulation Act

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CANNABIS REGULATION ACT – WATER USE

- The Act requires the Office of the State Engineer, through its Water Rights Administration Program (WRAP), to pre-certify that producers have valid water rights specific to the "commercial" uses of water rights as a precondition for licensed cannabis production.
- The OSE worked closely with the Regulating and Licensing Department (RLD) through its Cannabis Control Division (CCD) to help develop the procedures for meeting this requirement of the Act.
- The OSE worked closely with RLD on the Cannabis Water Rights Review Accession Form that is used today by applicants to show valid water rights for cannabis growing.
- OSE started receiving RLD/CCD "Cannabis Water Right Accession Review Forms" on September 1, 2021, for water right validation reviews.
- The numerous water rights reviews and validations required has impacted the normal water rights administration workload in all 7 District offices and has created a need for additional compliance and enforcement resources.

CANNABIS WATER RIGHTS CASE STUDY FOR EXISTING AG WATER USE

- Example: existing irrigation right on a 10-acre farm has a right to divert 50 acre-feet of water per year, and to consume 25 acre-feet of water per year.
- If the owner wants to use a greenhouse to grow crops (including cannabis), the owner must apply to change the right to a commercial purpose of use with a right to divert <u>25 acre-feet</u> of water per year and consume 25 acre-feet of water per year.

CANNABIS GOLD AT THE END OF THE RAINBOW?

Several issues have come up on the determination of the validity of water rights for commercial production.

- Surface water farm use transferred to pressurized commercial use (greenhouse) requires a new permit.
- Municipalities and mutual domestics
 - Can provide water from their system if they have capacity and use is within their service areas.
- Private Domestic Wells
 - Wells must have a commercial water right so domestic well water use is not allowed
- Water hauling is being approved as a temporary source outside of State Engineer review.



MORE INFO ON THE OSE WEBSITE

https://www.ose.state.nm.us/WR/cannabis.php



The New Mexico Cannabis Regulation Act, defined in Sections 1 through 42 [26-2C-1 to 26-2C-42 NMSA 1378] was enacted on April 12, 2021, requiring that an applicant requesting to produce cannabis for side to demonstrate the least right to a commercial water supply, a valid water right or another supply of 1976) was enacted on April 12, 2021, requiring that an applicant requesting to produce cannable for sale to demonstrate the legal right to a commercial water supply, a valid water rights or another supply or water different to mean the water needs or determined by the Demonstration and Linearcon Proceedings to demonstrate the legal right to a commercial water supply, a valid water rights or another supply of water sufficient to meet the water needs as determined by the Regulation and Licensing Department. Proved must be antideneed by decrementation from the office of the state environment of a wall-t water right or Water sufficient to meet the water needs as determined by the Regulation and Licensing Department. Proof must be evidenced by documentation from the office of the state engineer of a valid water right to better from a water moduler evidence that the use of water for exercision evidence or exercision was have Proof must be evidenced by documentation from the onice or the state engineer or a value water right or a letter from a water provider stating that the use of water for cannabis production is compliant with that

water providers rules.

Can I grow cannabis using water from my domestic well? While you may use a domestic well for personal (non-commercial) cannabis growth allowable by law, similar to water use for a garden, domestic well permits do not allow water to be used in 0:

- growing any commercial crops, including cannabis, Cannabis producers must acquire valid ervines any commercial course insuring calmans, calmans, prousees must acquire vana ingation rights for outdoor cultivation or commercial water rights for indoor cultivation, if you inigation rights for outsion cuttwaren or continential water rights for indexer cuttwaren, in you do not have them, you will have to acquire valid commercial or inigation rights from someone who does, then transfer those rights into your existing well with a permit from the Office of the State Engineer (OSE). All permit approvals will require meter installation and reporting of the

 - I have a well that was permitted for Drinking and Sanitary Uses in conjunction with a
- Commercial Operation, can that be used to grow cannabis? No, that well is drilled under statute 72-12-1 NMSA which does not allow the use to grow No, Use were to unless unless secure 74-34-3, remain versus uses not entered we use to be over commercial crops. This well is only allowed for uses such as sinks and bathrooms for a business. 0:
- A drinking and sanitary well may, however, be used to supply water to your facility for hand washing as required by CCD regulation which states: 16.8.2.27(F)(4) NMAC, "hand-washing facilities are provided that are adequate, accessible, furnished with running water at a suitable mentions are provided user are subspace, accessing, initiated with funding eases as subspace temperature, conveniently located in indoor production facilities, in restrooms, and wherever engenaure, conveniency science in model production induces in resources, and smoother good sanitary practices require employees to wash or sanitize their hands, and stocked with even among process require employees to went in sample over ramon and success with effective hand-deaning and samiting preparations, and sanitary towel service or suitable
 - I own property that has an acequia (ditch), stream, river, spring or waterway running through it,
- Do not assume that you have water rights because you have bought property with an acequia. 0:
- un un doutine une you have water react gots because per large sought property and an accoust of dich, river, stream, spring or waterway running through it. Check with the OSE, local District I found someone willing to sell me water rights that I will need to move to my property, is there
 - I tourna suttreame wrining to sen the water Tights unit (with more a universe of) anything I should be concerned with before purchasing these water rights?
- - Note: This FAQ sheet is intended to assist those interested in commercial cannabis Note: Inis FAQ sheet is intended to assist those interested in commer cultivation. This may be updated and subject to revision. Page 1 of 2

This version is valid as of 09/24/2021

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This FAQ sheet is intended to assist those interested in commercial cannabis

ep house is considered a greenhouse and would require a commercial water

hoop house with my irrigation right?

ution (Not would into water ingris on commission agreed and a content of the use buying it from ABCWUA and you can show you are a customer of the

ארק נטגנטוזפי אום פרטיפי קטט זואיפ נופי איזניד סי דאפור. נט נוסי ג. וי קטט איפ אנפ סט of a building in, say, Albuquerque, the Albuquerque-Bernalillo County and out or a sumoning mis say, ausoupenque, une ausoupenque-que-semination country thority (ABCWUA) has water rights for commercial, agriculture, and domestic

riano, you are owning or remains a neurony connection to a connect to no or systems, your road will be easier to travel because you can connect to those ving customer and prove you have the water or "right" to use it. If you are

MMERCIAL CANNABIS GROWING WATER USE FAQ'S - OSE

right for sale, is there a process to expedite the transfer?

ansferring water rights.

-25, or 72-5-25 NMSA.

is to sell you water rights from an acequia system, check to see if that acequia

by any you were ingression and an average and the second in the second of the second o

ornano use process or minimized transfers would accepted commonwork or marke worken have the right to refuse the transfer. Also, you must research to make

rights that you are being offered are valid rights. There are also some specific

ngnis unat you are vering interes are vanis rights, rinke are and sonie spears groundwater basins that limit how water can be transferred to different places

groundwater beams that terms now water can be versioned as uniform paced to the OSE, local District Office to find out more about what restrictions might

, this does not qualify as an emergency request pursuant to statutes 72-12-22,

line for changing the place, purpose, and/or point of diversion of water rights?

und water rights to purchase, get ready to get in line again. The Office of the nonio wale rights to portriase, get ready to get in the again, the united of the no vice sourcements reaces were approximity beamingers severate or n average wait time of eight to 10 months. If someone protests the application ו איפיואפור אווור אוויר טי פיקודו גע גע וואוווגדע וו געוויפאיזי איי שאיפרע עייד פאסטעעעעע wear rights, it could take another possible one to two years of waiting while plyed through legal processes. ed via rooftop catchment, which is allowed, is NOT a valid water right so this water to grow commercial cannabls? s a water source for the purposes of commercial cannabis growing. You may to a water source for the proposes of continential carmators growing, you may light from your rooftop only to supplement a valid water right, but that isali. nected to a commercial or municipal water system? hand, you are buying or renting a facility connected to a commercial or



STATISTICS ON OSE WATER RIGHTS REVIEWS

