


Enforcement- “What **can** we do?

What **can't** we do? And what do we have to do, to do what we want and need to do, so we don't get accused of not doing what we said we would do?”



Chad Burrell Snyderville Basin Water Reclamation District
Operations and Safety Manager

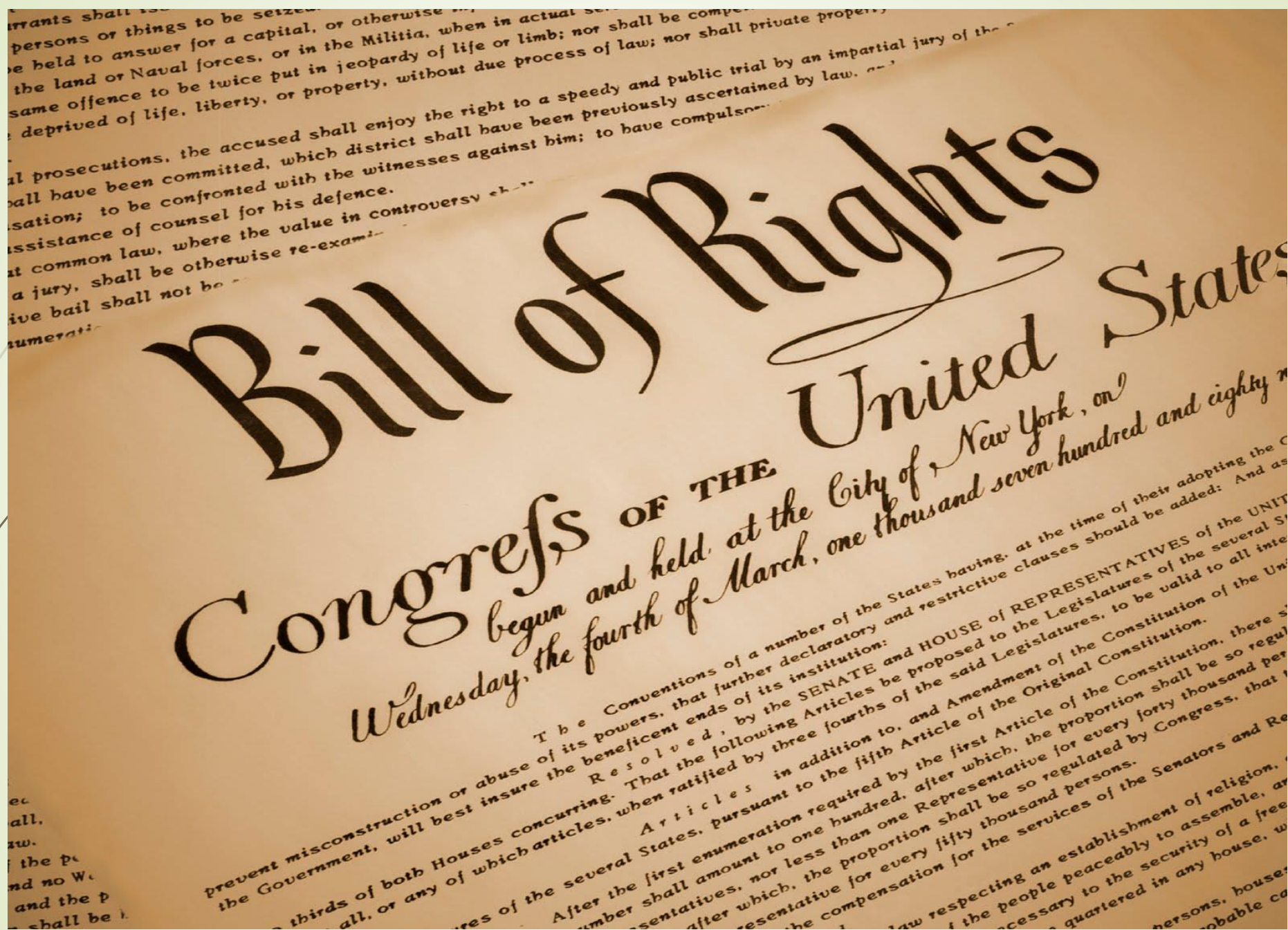


Who does the Bill of Rights Protect?

Why were they written?

How did they become Law?

- ▶ “The Anti-Federalist critics of the document (Constitution), who were **afraid that a too-strong federal government would become just another sort of the monarchical regime** from which they had recently been freed, believed that the Constitution gave too much power to the federal government by outlining its rights but failing to delineate the rights of the individuals living under it. The promise of a Bill of Rights to do just that helped to assuage the Anti-Federalists’ concerns.”
<http://www.history.com/this-day-in-history/the-bill-of-rights-becomes-law>
- ▶ The newly elected Congress drafted the Bill of Rights on December 25, 1789. Virginia’s ratification on December 15, 1791 created the **three-fourths majority necessary for the ten amendments to become law.**



Bill of Rights

United States

Congress of THE
began and held at the City of New York, on
Wednesday, the fourth of March, one thousand seven hundred and eighty nine

persons or things to be seized
be held to answer for a capital, or otherwise
the land or Naval forces, or in the Militia, when in actual
same offence to be twice put in jeopardy of life or limb; nor shall private property
deprived of life, liberty, or property, without due process of law; nor shall private property
prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the
shall have been committed, which district shall have been previously ascertained by law, and
sation; to be confronted with the witnesses against him; to have compulsory
assistance of counsel for his defence.
at common law, where the value in controversy shall
a jury, shall be otherwise re-exami
ive bail shall not be
umerati

prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as
the Government, will best insure the beneficent ends of its institution:
Resolved, by the SENATE and HOUSE of REPRESENTATIVES of the UNITED STATES, in
Articles in addition to, and Amendment of the Constitution, there shall be so regulated
After the first enumeration required by the first Article of the Constitution, there shall be so regulated
representatives, nor less than one hundred, after which, the proportion shall be so regulated
after which, the proportion shall be so regulated for every forty thousand persons
representative for every fifty thousand persons.
the compensation for the services of the Senators and Representatives
law respecting an establishment of religion, or
of the people peaceably to assemble, and
necessary to the security of a free
quartered in any house, w
persons, houses
probable co



The Bill of Rights

1. Speech, Religion, Press, Assembly
2. Bear Arms
3. Quartering of Soldiers
4. Unreasonable Search and Seizure of House and Papers
5. Life, Liberty and Property
6. Criminally Accused Person Has Rights
7. Rights in a Civil Case
8. Cruel and Unusual Punishment Forbidden
9. Rights Kept by People
10. Undelegated Powers Kept by State and People



Be Careful With Enforcement

- Our actions of enforcement should not infringe on someone's Constitutional Rights.
- There is a balance between enforcement and someone having the right to protect their property. A business, equipment and money are all forms of property.
- What can we enforce?
- What CAN'T we enforce?
- So..... WHERE DO WE GET OUR AUTHORITY TO ENFORCE?
- Just because we, or an environmental activist group thinks something is BAD does not make it ILLEGAL.



<https://www.google.com/search?q=picture+of+clint+eastwood+pointing+a+gun>

Let's take it from the top.

- Congress passes the laws that govern the United States, but Congress has also authorized EPA and other federal agencies to help put those laws into effect by creating and enforcing regulations.





How Many Laws were made last year?





112th Congress

- 6,824 Bills Introduced
- 561 Passed
- 758 Average

Great laws still on the books.

- ▶ When parking your elephant at a meter in Orlando Florida, be sure to deposit the same amount of change as you would for a regular motor vehicle.



- ▶ Arizona, according to a law made in 1924, it is illegal for donkeys to sleep in bathtubs.



- ▶ Utah, it is illegal to NOT drink milk.



- Salem, West Virginia, it's against the law to eat candy less than an hour and a half before church service.



- ▶ In Missouri you can't drive down the highway with an uncaged bear in your car.



Creating a Law



- **Step 1: Congress Writes a Bill** A member of Congress proposes a bill. A bill is a document that, if approved, will become law.
- **Step 2: The President Approves or Vetoes the Bill** If both houses of Congress approve a bill, it goes to the President who has the option to either approve it or veto it. **If approved, the new law is called an act or statute.** Some of the better-known laws related to the environment are the [Clean Air Act](#), the [Clean Water Act](#), and the [Safe Drinking Water Act](#).
- **Step 3: The Act is Codified in the *United States Code*** Once an act is passed, the House of Representatives standardizes the text of the law and publishes it in the *United States Code* (U.S.C.). The U.S.C. is the codification by subject matter of the general and permanent laws of the United States. Since 1926, the U.S.C. has been published every six years. In between editions, annual cumulative supplements are published in order to present the most current information.




Putting the Law into practice

- ▶ Once a law is official, here's how it is put into practice: **Laws often do not include all the details** needed to explain how an individual, business, state or local government, or others might follow the law. The *United States Code* would not tell you, for example, what the speed limit is in front of your house. In order to make the laws work on a day-to-day level, **Congress authorizes certain government agencies - including EPA - to create regulations.**
- ▶ **Regulations set specific requirements** about what is legal and what isn't. For example, a regulation issued by EPA to implement the Clean Air Act might explain what levels of a pollutant - such as sulfur dioxide - adequately protect human health and the environment. It would tell industries how much sulfur dioxide they can legally emit into the air, and what the penalty will be if they emit too much. Once the regulation is in effect, EPA then works to help Americans comply with the law and to enforce it.



Creating a Regulation

- ▶ **Step 1: EPA Proposes a Regulation** The Agency researches the issues and, if necessary, proposes a regulation, also known as a Notice of Proposed Rulemaking (NPRM). The proposal is listed in the [Federal Register \(FR\)](#) so that members of the public can consider it and send their comments to us. The proposed rule and supporting documents are also filed in EPA's official docket on [Regulations.gov](#).
- ▶ **Step 2: EPA Considers Your Comments and Issues a Final Rule** Generally, once we consider the comments received when the proposed regulation was issued, we revise the regulation accordingly and issue a final rule. This final rule is also published in the FR and in EPA's official docket on Regulations.gov.
- ▶ **Step 3: The Regulation is Codified in the Code of Federal Regulations** Once a regulation is completed and has been printed in the FR as a final rule, it is codified when it is added to the *Code of Federal Regulations (CFR)*. The CFR is the official record of all regulations created by the federal government. It is divided into 50 volumes, called titles, each of which focuses on a particular area. Almost all environmental regulations appear in Title 40. The CFR is revised yearly, with one fourth of the volumes updated every three months. Title 40 is revised every July 1.




Our Local Rules and Regulations *MUST* go through a similar process!
(may include some of the following)

- Rules and Regulations (Program) Written and Pre-Approved by DEQ
- Publish Comment to allow for public input
- Approval by the local Board/City Council of the Control Authority.
- Final DEQ approval-But I thought they already approved it?

District Rules and Regulations





Is it more important to do what the regulator tells us to or to do what we say (in our own regs) we will do??

Who is the only group of people that can get away with not doing what they say they will do??



Politicians!!!

➤ How ironic!!!



Administrative Enforcement Actions

- Notice of Violation
- Suspension of Service
- Administrative Compliance Order
- Consent Order
- Show Cause Order
- Cease and Desist Order
- Administrative Fines



Judicial Enforcement Remedies

- Injunctive Relief
- Civil Penalties
- Civil/Administrative Fines Pass Through
- Criminal Penalties





Publishing of SNC

- ▶ Chronic Violation (66%)
- ▶ Technical Review Criteria (33%)
- ▶ Interference or Pass Through
- ▶ Imminent Danger to Life or Environment
- ▶ Failure to meet Compliance Schedule
- ▶ Failure to provide Reports
- ▶ Failure to report Non-Compliance
- ▶ ANYTHING ELSE YOU WANT. Violation of BMPs or any other part of Program

Do we have an enforcement plan?



**"Look what I found in the dumpster!
A perfectly good business plan!"**



How do we handle a face to face enforcement situation?

- Private vs Public property, how do we handle each situation?
- Do we go it alone or get someone to go with us?
- Do we involve law enforcement?
- Do we document the situation?
- Do we take pictures?
- What can and what can't we do in this situation?

Once we become aware of a violation, what do we do?



SNYDERVILLE BASIN
WATER RECLAMATION DISTRICT
2800 HOMESTEAD RD, PARK CITY, UT 84098 WWW.SBWRD.ORG T 435-649-7993 F 435-649-8040

June 6, 2017

[REDACTED]
[REDACTED]
[REDACTED]

Subject: Notice of Violation: Illegal Dumping

On June 5, 2017 at approximately 11:30 am [REDACTED] employees were observed by Detective Trent Jarman dumping an unknown quantity of liquid waste from one of their trucks into Snyderville Basin's manhole # 2410005 located at Wyatt Earp Way and Butch Cassidy Court. This manhole is owned and maintained by SBWRD and regardless of the quality of the water being discharged it is illegal to open and dump material of any kind into a District manhole without permission to do so.

Snyderville Basin Water Reclamation Pretreatment Program Rules and Regulations states the following:

- Chapter 1, Section 1. A. Storm water, surface water, groundwater, roof runoff, and subsurface drainage shall not be discharged to the POTW unless approved or authorized in writing by the Manager.
- Chapter 1, Section 4. B. No person shall open any POTW sewer manhole located in the

What are important parts of writing a NOV or any other form of enforcement?

violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

Accordingly, [REDACTED] shall be required to submit to the District an explanation of the violation that took place and a plan to correct the violation and prevent it from happening in the future. Once received the District will review the explanation and plan to determine whether further action will be taken.

Michael Luers,
General Manager

cc: Chad Burrell, Pretreatment Coordinator
Michael Boyle, Operations Manager
Dan Olson, Maintenance Manager
[REDACTED]



Follow-up and further enforcement.

- Does every violation need an official letter of action? (what do rules allow?)
- Does every violation need a fine?
- How do we handle repeat violations?
- How are correspondences mailed?
- Do we include a deadline?
- **DO WE HAVE A PLAN????**



Questions?
Comments?
Jokes?

Safe Travels!

Don't forget to ask TSA if they have the right to search you!!!