



CITY OF ENTERPRISE

S. Lee Bracken

Mayor

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January 4, 2012

Kent Jones
State Engineer
State of Utah
PO Box 146300
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Dear Mr. Jones:

As we approach the apparent adoption of a Groundwater Management Plan, I wish to make some points for consideration. While simplicity is desirable there may be some unanswered questions that could lead to undesirable or unintended consequences. Without any particular order of importance I wish to state or re-state some concerns.

1. It is difficult to tell from the small dotted line map that outlines the plan area, but it would seem in may need better definition. There appears to be an overlap of a political boundary with the Central Iron County Water Conservancy District. While we were not involved in the creation of the boundary, we are left to deal with the confusion that exists with that entity and the threat they feel with encroaching into an area with possible taxing authority.
2. There may be an inherent flaw in the depletion calculations in the GMP. It states: **“the baseline for irrigation from which future reductions will be calculated is the current legal amount of irrigation in the area, 27,795 acres of alfalfa, multiplied by the consumptive use value for alfalfa, 2.4925 feet, which equals 69,280 acre-feet.”** While the acre assumption may be valid, the consumptive use may not be. Scientists at New Mexico State University recently announced that through plant breeding they have developed a strain of drought tolerant alfalfa. After 30 years of study they claim to have identified a series of DNA markers on alfalfa chromosomes that play a key role in producing alfalfa with less water. If a management plan and expected depletion reduction is rigidly tied to an old consumptive use study, it may have the effect of distorting the actual effect if less water consumptive strains of alfalfa are introduced.

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3. The plan does not address the consequence of ground cover loss and issues related to restoration of abandoned farmland. Without a defined solution to this problem it invites the creation of a dust bowl area exposed to wind erosion and significant impairment of air quality.
4. While occasional reference has been made to the GMP in reference to the Utah Takings Law, I am not satisfied this matter has been fully or adequately explored. Article 1, section 22 of the Utah Constitution states that **“private property shall not be taken or damaged for public use without just compensation.”** A taking is: **“any substantial interference with private property which destroys or materially lessens its value, or by which the owner’s right to its use and enjoyment is in any substantial degree abridged or destroyed.”** There does not appear to be Utah case law that sheds light on the imposition of a groundwater management plan that mandates a reduction or elimination of a water right.
5. According to our calculations the impact of Enterprise City of a 45% cut by priority as defined in the plan would result in the loss of 27% of our municipal water rights. It is worth repeating that the hydrologic data from the underground water wells and the USGS test well in Enterprise City show an improvement in our static water table after more than 40 years of beneficial use. After decades of prudent planning for future growth and development with apparent stability of our underground water supply, the City may be placed in a difficult position with regards to the future.
6. There is hope that some form of water management district can be created to facilitate a voluntary arrangement and create some certainty and peace of mind for the water right holders. After two attempts to modify the state statute, it still remains unclear if all of the provisions are in place to facilitate the unique entity that needs to be created. It also creates an expectation on the farmers to find a solution to the complex and difficult challenge to administer the many culinary water rights that are impacted. Without any precedent, the farmers in two counties are expected to develop a district that will be the first of its kind in dealing with a critical management area groundwater management plan. It will have to define and protect a variety of interests, potentially deal with water right pooling in the context of priority date, incorporate new water banking laws, be fair and equitable in representation and taxation, operate at low cost, be autonomous and independent, and at the same time achieve the goals of the State and represent the interests of its members. I view this as a big challenge for a small group of people whose expertise is in raising quality alfalfa and in municipal government.

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7. There are few options and little recourse available to the individual holding a small culinary water right that represents their lifelong investment and very survival. Destroying the livelihood of a rancher or someone's retirement home that is distant from the heavily pumped agricultural area seems capricious. When the theory of safe yield has its effect on the personal lives of people and their dreams, one wonders if there is political will to impose such hardship.

8. Many believe the State of Utah has some moral responsibility for the economic hardships that imposing a groundwater management plan may inflict. The State encouraged and promoted War veterans and others to develop the Escalante Valley. Instruction was provided and water was appropriated to induce development. Millions of dollars have been invested in drilling wells, installing sprinkling systems, and purchasing planting, harvesting, and storage equipment. Many still feel the State is complicit in the creation of the problem and should assume more responsibility for the solution.

With all of those thoughts, I also wish to express my recognition for the difficult task you have and the responsibility given you to follow the law. We all appreciate your concerns for the difficulties we face and hope we can continue to look to your office as we go move towards a solution.

Respectfully,



S. Lee Bracken

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