



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office
440 West 200 South, Suite 500
Salt Lake City, UT 84101-1434
<http://www.blm.gov/ut/st/en.html>



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7250 / (UT-933)

FEB 25 2014

CERTIFIED MAIL

Kent L. Jones, P.E.
State Engineer
Utah Division of Water Rights
1594 West North Temple, Suite 220
Salt Lake City, UT 84114-6300

Subject: Bureau of Land Management Comments on Proposed Groundwater Management Policy for Water Right Areas 14 and 69 (Pine Valley and Wah Wah Valley)

Dear Mr. Jones:

The Bureau of Land Management (BLM) appreciates the opportunity to submit comments on the proposed Groundwater Management Policy for Water Right Areas 14 and 69 that was discussed at the meeting held in Milford on February 4, 2014. The BLM fully supports your goal of developing a reasonable groundwater management policy that allows for the reasonable beneficial use of water without over-appropriation of the subject basins. However, as discussed herein, we have certain concerns about the proposed policy, and request that the ongoing United States Geological Survey (USGS) groundwater study of the Pine and Wah Wah Valleys be completed before any changes are made to the current management policy.

The BLM believes that adoption of the proposed policy at this time could have substantial impacts to senior water rights, historic land uses dependent on those senior water rights, and the natural environment in the two valleys. Consequently, we request that you refrain from adopting a groundwater policy for Areas 14 and 69 until the USGS groundwater study of these two valleys is completed. The results of the USGS study will provide a much more complete knowledge of the hydrogeology and water budget of the two valleys. The BLM makes this request based on the following concerns:

1. Large scale water use in the two valleys cannot occur in the near future because of the variety of governmental authorizations needed for large scale water development. This fact became clear during the Division of Water Rights' November 20, 2013, hearing on the pending application (69-115 / A79462) of the Utah Alunite Corporation and the Utah School and Institutional Trust Lands Administration for water to be used in connection with their proposed potash mine. Based on the discussions at the hearing, it appears that the proposed mine cannot be constructed and operated without right-of-way grants from the BLM for

rail lines and electric transmission facilities. When right-of-way grant applications are ultimately submitted to the BLM, the agency will be required to comply with the National Environmental Policy Act and other federal law in considering the environmental impacts of approving the applications. Along these lines, the BLM will be required to identify and evaluate the potential impacts of the mine development, including those impacts associated with large-scale groundwater development. As a result, it is likely that processing the right-of-way applications will require preparation of an Environmental Impact Statement and related groundwater modeling, both of which will require substantial time to complete. Similarly, the groundwater developments proposed by the pending applications of the Central Iron County Water Conservancy District and Beaver County will likely require extensive rights-of-way across BLM-managed public lands that will require substantial time to analyze. Overall, it appears highly unlikely that the right-of-way application process for any of such proposed developments would be able to be completed before the USGS groundwater study, currently scheduled for completion in late 2015.

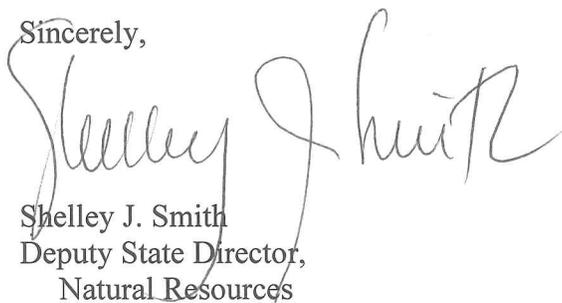
2. If the groundwater management policy is adopted and the above-referenced pending applications are approved, substantial investment-backed expectations among the potential new water users could be created. These expectations could be frustrated at a later time if the USGS study reveals significantly different hydrologic assumptions than are assumed at the present time, and it becomes necessary for the Division to scale back the respective approvals. For example, the USGS study could reveal that water is not available in previously estimated volumes, and that new wells may not be able to physically divert sufficient water to make the proposed projects economically viable. Similarly, if the USGS study were to show that water in the valley fill aquifer cannot be diverted in large quantities without affecting senior water rights, it would likely be necessary to revise the groundwater management policy to restrict diversions and address over-appropriation, again affecting the viability of the water development projects that were approved based on the new policy.
3. Presently, applications to appropriate in Areas 14 and 69 are limited to small filings, such as for sufficient water for one family, $\frac{1}{4}$ acre of irrigation and 10 head of livestock (1.73 acre-feet). Under the proposed policy, these limitations would be eliminated and applications for all uses would be considered. Prematurely approving such an expanded use policy could place the Division in a situation where it will be expected to approve large scale applications that could have an unstudied and significant potential to impair senior water rights. The BLM believes it is prudent to avoid situations like those in Snake Valley, in which the Division has approved several applications that later resulted in serious impairment to the BLM's senior water right at Needlepoint Spring. When considering those applications, the State Engineer faced the same situation as currently exists in in Pine and Wah Wah Valley – that being insufficient information to make an informed determination about available water supplies and potential impairment to senior water rights.
4. Less is known about the groundwater hydrology of Pine Valley and Wah Wah Valley than any other basins with the Great Salt Lake Flow System. Definitive information is not yet available concerning groundwater flow paths between basins and geological barriers to groundwater flow. Data is particularly limited (i.e. water levels, water quality, groundwater

ages and hydrogeologic framework) in the highest elevation portions of the two basins, where proposed water development projects are to be located. Given the poor understanding of these two basins combined with the very large volumes of water development sought by the applicants, it appears to be prudent to at least wait for USGS data that will either support or bring into question current assumptions about the hydrology of the two basins.

In sum, we believe that it would be in the public interest to wait for the USGS study to be completed before the proposed groundwater management policy is considered further. The results of that study will allow the State Engineer to make well-informed, scientifically-based decisions on all pending and future water right applications, and likely avoid over-appropriation of Areas 14 and 69. The results of the USGS study may also show that we know far less than previously thought about the hydrology of the two valleys, and that other critical studies or data points are needed before adopting a management policy that sets aside the current limitations on new applications to appropriate water. It appears that waiting for two years for the information that the USGS study will generate would be prudent, especially given that there are not any potential water users who could implement significant diversions within that timeframe, and given that a premature policy change could result in over-appropriation of the water supplies in Pine and Wah Wah Valleys.

The BLM very much appreciates the State Engineer's ongoing effort to work with the BLM to utilize the State of Utah water right system to protect BLM water sources that are critical sound management of public lands in Utah. If you have any questions about this letter, you may contact Roy Smith at 303-239-3940.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shelley J. Smith". The signature is written in dark ink and is positioned above the typed name and title.

Shelley J. Smith
Deputy State Director,
Natural Resources