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WATER RIGHTS
SALT LAKE

August 31, 2007

Mr. Jerry D. Olds, P.E.
Utah Division of Water Rights
PO Box 146300
Salt Lake City, Utah 84114-6300

Dear Mr. Olds:

Thank you for the opportunity to submit additional comments regarding the development of a groundwater management plan for the Beryl/Enterprise area. Western AgCredit, as the area's primary agricultural lender, remains very interested in efforts to develop a reasonable and effective management plan.

In our prior comments, submitted after the March meeting, we stressed the following three points that we felt were very important to consider when implementing a ground water plan. (Please refer to our April 17 letter for further detail regarding these concerns.)

- Assure There is no Material Abuse
- Assure that Supportable, Up-to-date Data is Used
- Use Prudence and Caution in Actions Taken

Representatives from our company also attended the public meeting in Enterprise on August 6. Some of the information presented in that meeting touched on a few of our original concerns, but additional questions remain and the importance of the above three points is further established. In response to the information presented at the August meeting, we are submitting the following comments and concerns for your consideration.

- **Assure that Supportable, Up-to-date Data is Used:** We remain concerned about the adequacy of the data available to support the process of developing a groundwater management plan. The additional data/calculations presented were based on relatively short time periods and other seemingly important information was not available.
 - For example, the calculation of Recharge based on Consumptive use, less reduction in Storage, was based on the five year period from 2001 -2005. This was a period of extreme drought and heat that could potentially skew the results dramatically. (Based on the graph inserted in your slide #23, "Method 1 – Consumptive," it appears that pumping during the period of 1991 – 1995 averaged about 10,000 acre feet per year less than during the period used in your calculation. The years 2002 – 2004 had much higher annual pumping rates than the average pumping rates experienced over the period since the implementation of more efficient irrigation practices.) This gives the appearance that "worst case" data is being used to

influence perceptions about the magnitude of the problem and the severity of the corrective action needed.

- There seemed to be significantly conflicting information about how much the standing water levels are declining in the most heavily pumped areas. The water users in those areas were very adamant that the USGS drawdown numbers were much higher than what they have experienced with their active wells. It would seem beneficial and wise to try to reconcile those differences and have the best information available from all sources.
- In the question/answer period of the August 6 meeting, and again during our follow-up call to your office on August 7, we were told that the State Engineers Office does not know how long it takes for the recharge from mountain precipitation to impact the water levels in the aquifer. It would seem that such information would be important for measuring the effectiveness of any reductions in water usage. Otherwise it will be difficult to determine if positive results, or the lack of results, are caused by the level of reduction in current usage or by precipitation amounts from prior years.
- In addition, there continues to be no information about the overall volume or capacity of the aquifer. There was no information presented regarding this factor in either of the public meetings and in our follow-up call to your office on August 7, your staff responded that reliable estimates are not available.

In the August 6 meeting, there seemed to be differing opinions on how the term “gradual” in the Statute should be interpreted. It would seem that information regarding the percentage of depletion, relative to the total volume of water, is necessary to determine if urgent, drastic actions are necessary; or if less severe, incremental measures would be appropriate. For example, if the aquifer has total storage equal to Deer Creek Reservoir, removing 30,000 acre feet from storage each year would noticeably impact the economics of continued pumping. On the other hand, if the aquifer has as much water as the Great Salt Lake, annual reductions of the same amount would be much less noticeable and would afford much more flexibility in the implementation timetable.

The lack of consistent, reliable data regarding how quickly and by what magnitude different factors impact the water levels inhibits the ability to make these important decisions with a high level of confidence.

Use Prudence and Caution in Actions Taken: Although it was stated several times in both meetings that the numbers included in the presentations were just to stimulate discussion, the implied message has been that 30% to 50% of the annual pumping will need to be terminated to achieve Safe Yield. As individuals expressed concern about the impact on water users with newer priority rights, you made several comparisons to actions taken regularly on Surface rights in low water years.

We fully understand the Doctrine of Priority with respect to water rights, and we fully support Priority as the only realistic way to allocate limited supplies of water.

However, care must be taken to distinguish between an action that is appropriate when there is a shortage of Surface water compared to the action that should be taken with a “shortage” of Ground water. We believe that the following points support this position:

- The actual shortage of a Surface right is much easier for your office and users to accurately measure and quantify. However, as has been discussed above, such accurate measurements and observations are not possible with Ground water.
- The supply of Surface water is much more volatile from year-to-year than the supply of Ground water. Irrigators using service water are accustomed to annual limits during periods of drought and can modify cropping and irrigation practices temporarily as needed. However, with Ground water, it might take years or even decades for anyone to know if there is sufficient water available to restore usage of a right that has been previously suspended.
- With Surface water, you can quickly and absolutely correlate the change in usage to the impact on the remaining supply. However, as discussed above, such quick and absolute correlation is not attainable with Ground water.

It seems to be overly simplistic to assert that because the Doctrine of Priority is applied regularly to Surface water that it will be as easy to “draw a line” that appropriately distinguishes which Ground water rights should be suspended and which rights can remain in use to achieve Safe Yield.

Again, we encourage you to implement plans at the less severe end of the range of possible actions. Then if results over time document that more severe restrictions are needed, make necessary adjustments. This approach has less chance for unnecessary damage to the area’s economy and to individual operations and property owners.

- **Encourage and Facilitate efforts by Water Users to take Voluntary reductions and build Consensus:** We were disappointed by what appeared to be dismissal of the possibility of having the Water Users work together to develop a plan based on voluntary reductions in water rights at specified levels. We think that the community should be complimented for its efforts to build consensus and for the willingness of users with higher priority rights to give up some water in order to reduce the potential impact on other users – notwithstanding the Doctrine of Priority. **Although the plan proposed by the Water Users may need modification, we think that efforts should be focused on working to improve that plan and gain support of the small percentage of water users who are not “on board.”** If the plan can be established through this method, rather than having a plan be imposed on the community, other negative impacts can be minimized.

The Beryl/Enterprise economy is heavily dependent on agriculture, which in turn is dependent on water. Our ability to continue to finance agriculture in the area is impacted by the reliability and stability of the local economy. Overly aggressive actions that impact a large percentage of the water rights will cause dramatic economic consequences. Some water rights

would immediately be perceived to have little or no value; and, at that same time, speculative forces would drive up the price for remaining water rights to users who seek to purchase rights because they cannot abandon their investment in other assets that depend on the water. This creates an environment of potentially unacceptable risk to lenders.

We again thank you for this opportunity to provide comments. If there is anything Western AgCredit can do to assist the process of developing a quality groundwater management plan, please contact Richard Weathered, President or LaMar Barrington, Chief Credit Officer at 801-571-9200.

Sincerely,



Richard Weathered
President & CEO



Wayne A. Smith
Chairman