

**BERYL-ENTERPRISE AREA  
GROUNDWATER MANAGEMENT PLAN  
FIRST PUBLIC MEETING  
March 13, 2007**

The meeting was held in the Jay O. Holt Memorial Auditorium of Enterprise High School at Enterprise, Utah. The meeting had been publicized as required by statute and, in addition, by individual mailed notices to owners-of-record of water rights in the area contemplated for inclusion within the plan boundaries.

The meeting was called to order by State Engineer Jerry D. Olds at approximately 11:00 AM. Mr. Olds introduced the agenda of the planned meeting and those persons who would be making portions of the presentation:

- Jerry D. Olds, State Engineer, addressing the statutes governing groundwater management plans;
- James Greer, an engineer with the Division of Water Rights (“Division”), presenting information related to hydrology of the subject area; and
- Dr. Steven S. Vickner, an economist from Utah State University, covering the manner in which economic impacts of the plan will be evaluated.

Following those presentations, time would be allowed for questions and comments, although the submission of written comments at a later date was also encouraged. Mr. Olds noted that the purpose of the meeting was to present information and to encourage thinking about the issues that must be addressed in producing a Groundwater Management Plan (“GMP”).<sup>1</sup>

**Presentation by Jerry D. Olds, State Engineer:**

Mr. Olds briefly recounted the history of the legislation governing the creation of a GMP in Utah. He described the work of the Legislative Water Task Force which produced legislation captioned HB228 (2006). That legislation amended the statute at Utah Code Ann. § 73-1-5 and enacted a new section of statute under Utah Code Ann. §73-5-15. Copies of the bill were available for distribution. It was noted that there were a number of GMP’s produced prior to the enactment of this bill, but the plan currently being considered would be the first produced since enactment and under the guidance of those provisions. Several important elements of §73-5-15 were highlighted, especially those emphasizing the roles of “critical management area,” “safe yield” and the principle of “prior appropriation.” It was also noted that water users affected by a GMP can enter into “voluntary agreements” which may modify the strict regulation of groundwater based solely on safe yield and priority of rights. Following Mr. Olds’ presentation, several questions were taken:

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<sup>1</sup> These minutes will contain some detail regarding questions and comments submitted verbally at the meeting. For the sake of brevity, the comments and questions will be summarized in an effort to portray the primary issue addressed. Some questions or comments were deemed to be related to issues not directly pertinent to the purpose of the meeting and will not be included here.

Q: Will the plan be basin wide or limited to a smaller area?

A: The statute leaves the scope of a GMP to the discretion of the State Engineer. Decisions will generally be guided by specific facts related to the extent of the groundwater overdraft and with an eye to keeping the plan at a manageable scale.

Q: What is meant by the provision that the GMP process is exempt from rulemaking?

A: Mr. Olds explained the typical administrative rulemaking process and the role of the Division of Administrative Rules. He noted that the statute itself provided relatively detailed guidance for the process and that, despite the exemption from rulemaking, any GMP would be subject to court appeal to the District Court.

Q: Under §73-5-15 (3)(a)(vii), what are the “other relevant factors” that are to be considered in creating a GMP.

A: Typical of much legislation, there is a “catch-all” provision that provides the process with sufficient flexibility to consider unforeseen issues not included in the law. At this point, there are no such factors that have been specifically identified.

Q: Will future applications to appropriate or change water be governed by the GMP?

A: The area is closed to new appropriations. However, there could be provisions of the GMP that will limit certain types of change applications from being approved (e.g., to prevent deterioration of water quality or to prevent concentration of diversions in a small area).

Q: How will municipal and domestic rights be handled under a GMP?

A: The legislation creating §73-5-15 included no special provisions for nature of use of the affected rights. Such rights will be treated like any other right in accord with aquifer safe yield and priority date.

### **Presentation by James Greer, Engineer, Division of Water Rights:**

Mr. Greer emphasized that his presentation will be primarily geared toward identifying data and information that will be reviewed and/or collected in preparation for establishing a GMP; at this point, the data has not been interpreted and conclusions reached regarding safe yield. Approximately 37 different data sources were identified, including reports and studies that were presently available via the Division’s internet website.

A “Water Balance” summary was displayed to indicate the several factors that are considered in this calculation and the manner in which currently available or newly collected data would be incorporated into the process. It was stated that there are presently critical data gaps, especially in the areas of current and historic surface water diversion amounts and groundwater diversion amounts associated with specific water rights. The current calculation yields a rough estimate of “change in storage” (not to be confused with “safe yield”) of around 30,500 acre-feet of water per year.

Mr. Greer concluded his presentation with an explanation of efforts being made to “tighten up” and verify the Division’s water right records to assure that the electronic modeling of the water use is consistent with the official records.

Q: How much water is left in the aquifer?

A: There’s been no determination of that figure with precision although there are some estimates available. Such a determination is not directly pertinent to calculation of safe yield, so that determination is not part of this process.

Q: What portion of the water currently being diverted returns to the aquifer as return flow recharge?

A: That will depend on a number of factors including soil conditions and the type of irrigation being employed (sprinkler vs. flood). The graph shown by Mr. Greer showed the total annual diversion allowed (based on the current duty of 4.0 acre-feet per acre) and the estimated total annual depletion (based on the requirement of alfalfa hay of about 2.5 acre-feet per acre, equal to approximately 62% of the diversion allowance).

Q: What information do we have on inflow to and outflow from the local aquifer and adjacent areas?

A: Broad estimates have been made; the conclusion appears to be that such exchanges are relatively minimal with little effect on local hydrologic conditions.

Q: If Nevada starts pumping wells just over the state line to the west will that impact this area?

A: We are not prepared to address that question at this juncture, but are aware of the issue and acknowledge there is cause to pay attention to the potential for such impacts.

Q: Will there be any involuntary taking of rights for reassignment or resale to other entities?

A: No. We will only be doing what the statute directs and authorizes. Any cutoff of water use will be based on the principles of safe yield and priority date. If this response is insufficient, please submit questions in writing and we will make an effort to respond more fully.

Q: Have any areas been identified as likely to benefit from a plan of “joint pumping” as opposed to continued operation of individual wells?

A: Not at this point. We can consider such ideas as the process moves forward.

Q: Are you prepared to rule out a requirement for water metering at this time?

A: Not at present. That option will remain open for consideration.

**Presentation by Dr. Steven S. Vickner, Economist, Utah State University:**

Dr. Vickner described the general methodology that would be employed for assessing the economic consequences of a GMP, once adopted. This methodology would utilize an “Input-Output Model of the Regional Economy” with several data sources providing the

model input. Consequences will occur as both “direct impacts” (e.g., changes in water use patterns and reduced production) and as “ripple or spillover impacts” (changes in patterns of equipment and supply purchases, employment and household incomes). Further, the model will look at probable fiscal impacts to local and state governments and impacts resulting from changed land and water right market valuations.

Q: Will a “regional” model be sufficiently sensitive to properly portray local area impacts?

A: Available data sources are presently limited to, at minimum, county level data, so modeling is limited to that level to be valid. The proposed analysis methodology is also a reflection of the fact that impacts are not limited to the local economy but ripple through the regional economy, as well.

Q: Doesn't the local economy constitute such a small portion of the regional economy that the impacts will be lost?

A: There is a legitimate concern with properly identifying the local impacts and, as far as “direct impacts” are concerned, those can be identified. However, the overall impact of the GMP would not be limited to the local area and regional modeling is necessary to fully identify and quantify the ripple and spillover impacts.

Comment: Elected legislators from this area are primarily responsive to the needs of the population centers in St. George and Cedar City and not concerned with the small population that will be affected by the GMP.

Response: There are several elected officials present, indicative of their awareness of the issue.

## **Summary**

Mr. Olds summarized the presentations made in this meeting and activities initiated to date, especially noting that the hydrologic and economic presentations made in this meeting are for information purposes and to sketch out the framework of the real analysis yet to be completed. He reiterated that the purpose of the meeting was to stimulate discussion and to invite and engage further participation and input from the residents of the area. He encouraged the submission of written comments or questions, asking that an effort be made to make them specific to issues and constructive. Comments and questions received (with responses) will be regularly posted on the Division's internet website. Comments or questions are to be submitted directly to the State Engineer in Salt Lake City (mailing and website addresses given) or to the Region Office in Cedar City. Submissions should be made prior to May 15, 2007.

Further questions and comments were taken as follows:

Q: The legislation authorizing GMP's was intentionally crafted to say the State Engineer “shall,” not “may,” consider economic impacts. How will that be done?

A: The Division has contracted with USU and Dr. Vickner in that effort. It is clear that there is more work to do in this regard, but we are aware of the requirement in statute.

[Note: The referenced portion of statute appears at subsection 73-5-15(4)(b) and states that “. . .the state engineer shall, based on economic and other impacts to an individual water user or a local community caused by the implementation of safe yield limits on withdrawals, allow gradual implementation of the groundwater management plan.” It is believed that the primary considerations of safe yield and distribution by priority date are not compromised by this subsection, but that the rate at which a safe yield limitation is implemented may be extended over a period of time to mitigate impacts as far as such extension is reasonably possible while still achieving the objectives of the GMP as detailed at subsection 73-5-15(2)(b).]

Q: Is there anyone present who may be able to provide or direct the Division to available data sets pertaining to the local economy? If so, perhaps those could be incorporated into the economic modeling.

A: Again, “direct impacts” can be identified and evaluated locally. However, a focus on only direct impacts will lead to an understatement of the total impact of the GMP.

Q: Is there any consideration being given to activities that might increase or enhance the local water supply (e.g., controlling flows in local surface tributaries [wadis, arroyos])?

A: The Department of Natural Resources is actively involved in a program of watershed management and is seeking partners and opportunities for such work. The Department can be queried as to any potential in this regard.

Q: Where will water come from for future residential or commercial developments in this area:

A: As is presently the case, any new uses of water will typically require the acquisition of an existing right and the filing of a change application. No new water rights appropriations are contemplated.

Q: What about the deep, bedrock aquifer or “mine water”? Is it an isolated source?

A: Our current opinion is that we are dealing with an integrated hydrologic system and the water that was historically pumped to dewater the silver mine is hydrologically connected to the shallower aquifer in the alluvium (sand/gravel) of the valley.

Comment: It is vital that local economic impact be properly considered and evaluated and that the analysis is capable of quantifying those effects.

Response: The process of producing a GMP shall be open, public and transparent and will be consistent with the guidance given in statute. No decisions will be made without due consideration of local effects.

Q: When will a GMP be completed?

A: There are presently too many undefined issues to fix a completion date with any certainty. Based on our present level of knowledge, we anticipate this will be a “several-year” process.

Q: Do the local users have to ratify the GMP before it will become effective?

A: We anticipate a plan-creation process that, properly observed, should have sufficient public participation and input to produce a GMP generally accepted by the local water users. This has been our experience in producing previous GMP's. However, even if the process is observed, any person(s) believing they are aggrieved by the GMP can file an appeal and request a *de novo* review in the District Court ("*de novo*" means the court starts at the beginning and gives a full review to the GMP planning process).

The meeting was concluded at 12:49 PM by Mr. Olds.

[After the closing of the meeting, Senator Dennis Stowell addressed the remaining members of the audience and identified and introduced the several legislators present, in addition to himself, including: Senator Bill Hickman, Representative David Clark, Representative Stephen Urquhart and Representative DeMar "Bud" Bowman. Senator Stowell assured the group that their elected officials are concerned, as evidenced by their attendance, and would seek opportunities to receive input from their constituents in the plan area.]