

JEFFRY T. NIERMEYER
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

RALPH BECKER
MAYOR

November 3, 2008

Jerry Olds, P.E.
State Engineer
Utah State Engineer's Office
1594 West North Temple
Salt Lake City, Utah 84116

Re: Comments Concerning Proposed Rule R655-16

Dear Mr. Olds:

Salt Lake City Department of Public Utilities (the "City") respectfully submits the following comments concerning the adoption of Proposed Rule R655-16:

1. As you might expect, the City is particularly concerned that the Proposed Rule would affect how municipalities manage their water rights. On several occasions over the past few weeks, the State Engineer and his staff have indicated that a decision has already been made that the Proposed Rule will be amended to make it clear that the Proposed Rule does not apply to municipalities. The City believes that application of the Proposed Rule would be unworkable for municipalities and appreciates your willingness to exclude municipalities from the requirements of the Proposed Rule.
2. Even if municipalities are excluded from the Proposed Rule, its adoption could have a significant negative impact on municipalities. The City has hundreds of supplemental water rights. Many of these rights are also supplemental for other water users. This includes exchange agreements with the City where the other party only has a contract right to receive water. Even if a small percentage of individuals who have rights that overlap with the City's supplemental rights are required to submit the Statement of Sole Supply (the "Statement"), the City will be required to devote extra-ordinary resources to respond to inquires from such individuals. The Proposed Rule should be amended to provide that if a water right is supplemental for a municipality, an individual with an interest in that same right is not required to file the Statement with respect to that water right.

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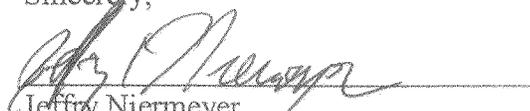
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3. The City has reviewed a draft letter prepared by Chris Bramhall on behalf of the Provo River Water Users Association that comments on the Proposed Rule. The City supports the concerns raised by the Association and encourages the State Engineer to seriously consider the suggestions made in the Association's letter.
4. The City's primary concerns are set forth above and in the Association's letter. We believe that the following items, however, should also be carefully considered before adoption of the Proposed Rule:
 - It is appropriate to require that the Statement be signed under oath? If someone is thoughtfully filling out the Statement, it seems that filing the Statement under oath would lead to unnecessary legal and engineering expenses.
 - Will the Statement only result in further delays in obtaining approvals of change applications and add to confusion with erroneous reliance on information included in the Statement? The City believes that it would result in an overall slowing down of the change application process.
 - Will the Proposed Rule result in an artificial fix of the use of water from particular sources and result in unnecessary adjudication of water rights in court proceedings? The interests of the water community are not advanced if litigation results from a change in the State Engineer's administrative rules.
 - Is it realistic to think that the Statement could be filled out in 60 seconds? It seems that the implementation of the Proposed Rule would, in fact, result in an expensive time-consuming process to fill out the Statement accurately.

In conclusion, the City wants to support the efforts of the State Engineer, but believes that it would be wrong to apply the Proposed Rule to municipalities. Excluding municipalities from the Proposed Rule, as you have indicated it your intention to do, would help avoid unintended consequences imposed upon municipalities and other members of the water community.

Sincerely,


Jeffrey Niermeyer
Director, Department of Public Utilities

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