



Public Comment Regarding GSL DMP

1 message

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These comments are submitted on behalf of US Magnesium ("USM") with regards to the State Engineer's proposed distribution management plan for the Great Salt Lake (the "GSL Distribution Plan"). As the State Engineer is aware, over the past five decades, USM has been one of the largest producers of primary magnesium in North America, operating its Rowley facility on the Great Salt Lake since 1972. US Magnesium holds four GSL water rights (15-616, 15-2161, 16-727 and 16-748) which are used in evaporative ponds in connection with its mineral extraction operations.

USM submits the following comments on the proposed GSL Distribution Plan:

- The GSL Distribution Plan fails to align with the State's prior appropriation doctrine, resulting in water use curtailment over multiple water adjudication basins without imposing uniform curtailments on upstream water right holders within the same basins. As a result, the GSL Distribution Plan selective curtailments across adjudication basins disproportionately burden the mineral extraction operators. Curtailment of upstream uses within specific basins should be incorporated in the GSL Distribution Plan.
- The State Engineer has failed to address how the deep curtailments proposed under the GSL Distribution Plan do not amount to a regulatory taking against mineral extraction operators such as USM. The GSL Distribution Plan, as currently proposed, will result in significant, adverse economic impacts on the mineral extraction operators. The State Engineer was required by statute to consider "economic viability" in developing the Plan. This does not appear to be the case as the proposed minimum pumping rates would result in the economic hardships as mentioned.
- The GSL Distribution Plan improperly targets relatively small, on-lake GSL diverters while ignoring the larger upstream diverters. The water consumption of mineral extractors are relatively small contributors to lake level depletion. The GSL Distribution Plan unjustifiably and disproportionately imposes the burden of GSL water level conservation largely on the mineral extraction operators, while failing to address upstream users.
- The UPRR berm flow to the North arm of the GSL far eclipses the amount of water the mineral extractors pump from the South arm of the GSL. The UPRR berm breach averaged 1500 cf/s over the past year, sending water to be evaporated in the biologically dead region of the GSL instead of using it to build water levels in the South Arm or for use in mineral extraction.
 - The GSL Distribution Plan curtails valuable water right uses while the State allows uncontrolled flow from the South arm of the GSL to North arm?

- Adoption of the GSL Distribution Plan should be delayed until the State has a system of controlling/modifying flow between North and South arms of the GSL.
- Mineral extraction would only require a fraction of the water flow through the UPRR berm breach to serve the same salt removal purpose, but also giving value to the State for the water.
- The GSL Distribution Plan ignores the lake level and environmental impacts of the unregulated flows from the South arm to the North arm of the GSL.
- The mineral extraction industry does a service to the GSL in sequestering salt in solar ponds. Prior to the UPRR breach, without mineral extraction, it's likely that the entire GSL would have been near saturation. How does curtailing legitimate pumping activities for salt removal fulfil the distribution management plan's mandate? Has the State adequately considered the lake quality and environmental impacts of curtailing mineral extraction?
- Does curtailment last until the GSL is "Healthy"? This appears to disproportionately burden the minor extractors without addressing the upstream diversions.
- Targeted meetings with the GSL water right holders, including the mineral extraction operators, should have been held by the State to ensure the GSL Distribution Plan adequately accounted for and balanced the social, environmental and economic impacts of proposed curtailments under the plan.

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