

diversion” for municipal water rights is the volume associated with 50 percent of maximum flow rate does not acknowledge the responsibility and need for municipal water providers to reserve the ability to utilize their full water right to meet the needs and demands of the future. These water rights and respective needs should be protected from impact by others and preserved for the public good in accordance with Utah Code 73-3-12(2)(j). Real and eventual future needs of these groundwater rights include:

- 1) increased demands from growth,
- 2) the need for system redundancy and reliability in the event of contamination or other failure of a primary culinary source (surface or underground), or
- 3) emergency flow or source replacement needs in the event of fire, earthquake or other natural disaster.

We also believe that the State Engineer should allow flexibility by applicants, either as a group or individually, to propose and obtain approval of change applications as mutually agreed by water right stakeholders within the respective local management area.

2.3 Proof of Appropriation/Change

Salt Lake City holds early priority municipal groundwater rights in which the application to appropriate was specified for a flow rate only. We do not believe that Sections 73-3-16 and 73-3-17 of the Utah Code allow, nor is it in the public’s best interest, for the State Engineer to require a proof showing total volume of water in the case of a groundwater right originally defined only by flow rate. Section 73-3-17 explains that the certificate of appropriation for a water right that has been perfected “...in accordance with the application therefore...” should be issued by the State Engineer for “...the quantity of water in acre-feet of the flow in second-feet appropriated...” As such, the certificate should reflect the original application to appropriate, and any change applications.

We do not believe that the proposed practice of requiring certification of volumes with proofs in which the right was originally defined only by flow rate would be in the public interest. The proposed policy would force municipalities to manipulate the operation of its groundwater well resources to show full annual use at each well. However, this is contrary to the sound management of well resources which are often used to meet peaking demands, but responsibly retained by municipalities to meet the public needs for future growth, redundancy, reliability and emergency as outlined above.

As an example, under the proposed Plan, a municipality may operate a well to produce 5,000 acre-feet to submit proof, and then again each five years thereafter to avoid forfeiture. Without a volume proof requirement, the same well may be operated much more efficiently to meet actual demands, with a significantly lower volume pumped. The aforesaid potential for system manipulation would be contrary to sound groundwater management, not to mention the potential operational and administrative impacts to the proposed management area or “square” concept if each well within a management square must be pumped at full volume once every five years. Therefore, we highly recommend that proofs be submitted and approved in accordance with how the right was originally defined in the approved application to appropriate underground water.