

Minutes

Groundwater Management Plan Committee

July 13, 2017

12pm – 2pm @ Cedar City Council Chambers

Committee Members

Joe Melling	Brent Hunter	Spencer Jones	Paul Bittmenn
Paul Cozzens	Paul Nelson	Ramon Prestwich	Rob Dotson
Reed Erickson	Paul Monroe		

Other Attendees:

Kent Jones, State Engineer	Nathan Moses, Area Engineer
Boyd Clayton, Assistant State Engineer	James Greer, Assistant State Engineer
Doug Hall	Roice Nelson
Gary Player	Shelby Ericksen
Kelly Crane	Mandi Williams
Frank Nichols	Richard Peterson

Items of Discussion

1. Review Minutes

- Minutes were reviewed and approved from the last meeting held May 11, 2017. Motion by Brent Hunter, second by Rob Dotson. **(4:00)**

2. How do we manage unused water rights?

- Chairman Melling explained the recent protests on the transfer of water rights from springs to groundwater and asked for guidance from the State Engineer on the issue. **(7:30)**
- Board Member Hunter asked if there is a possibility that the State Legislature buy back water rights that were over-appropriated. Jones said the idea has been proposed in the past. It did not receive a lot of support. It is not uncommon to have groundwater basins over-appropriated in Utah. The State Engineer can cut back by priority. First in time is first in right. If the water is not available, it can be cut back. Jones does not think buying back water rights will get far in the legislature. **(11:00)** Melling has seen legislative approval in the past because of local groups acting and showing there is a definite problem. Melling suggested not putting all resources towards that, but also not ruling it out as an option. **(13:50)**
- Paul Bittmenn asked what else the State Engineer can do. The State Engineer said they are doing a lot of work on supplemental use in Cedar Valley. Forfeiture actions are done through the adjudication process. It was completed in Cedar Valley in the early 70's. Jones said they will come back through Cedar Valley and do it again, but it could be years. **(16:20)** Monroe asked when the State will be finished with adjudication with the increased funding that has gone into the process. Jones said it will take 50-100's of years to get the entire state done. **(17:40)** The priority will be up north for a while. Adjudication

costs millions. Melling explained the process of adjudication. Jones said the adjudication process in Cedar Valley has not been completed fully through the court system. (20:40)

- Prestwich asked about metering in rural areas and how to prevent overuse in those areas. Jones said State Engineer's office is responsible for the enforcement and the enforcement engineer is in Cedar City. Complaints of overuse can be filed and they can be fined for overuse and acres can be cut back. (22:00) Prestwich asked if the GMP Committee can require people to have meters on rural water usage. Jones said statute says that anyone who uses water in the State is required to have adequate head gates and measuring devices to use water. That is not enforced in every area because we do not have enough people to read meters. Discussion on this topic continued for several minutes. (29:50) Jones said if it is decided as a committee and Division of Water Rights to monitor and measure water users with less than five acres, the State Engineer can do that. (30:15)
- Kent Jones said a Supreme Court case in 2011 said the State Engineer needs to be careful with forfeiture. A water right cannot simply be forfeited, there needs to be impairment on another right. The legislature wanted to help the State Engineer make these decisions, so they came up with a quantity impairment definition. If a water right has not been used for seven years, it becomes subject to forfeiture. (31:55) If a water right does not have water that is naturally available to it, like a spring water right, it is not subject to forfeiture. Springs that haven't flowed for forty years may still be reasonably there. Efforts like digging a five-foot hole may access water. (34:15) Forfeiture has to be an adjudicated action through the court system. The State Engineer cannot just declare something forfeited. The State Engineer has lawyers, but they are barely keeping up right now with the adjudication process in other basins throughout the State. (37:50)
- Raymond Prestwich said the GMP Committee has discussed the possibility of water users voluntarily setting their water aside until we can develop a plan. If water rights are cut back to a certain date, people don't lose their water rights, they just cannot use them again until the water is available. (38:55) Is there a possibility that the State Engineer can work with water users voluntarily setting their water aside? Jones said his office would be supportive of that. There is protection for water rights that are not used to comply with a groundwater management plan or water conservation plan. They would not be subject to forfeiture and they can file a non-use application. The application for non-use lasts for seven years. (41:30) Discussion on this topic continues for a few minutes. (46:00) Spencer Jones suggested a contract to set aside water rights on a yearly basis. (50:00) Discussion of how the State Engineer has been working in the Enterprise area. There is a yearly meeting the State Engineer attends where he receives a report. They report different crops that have been switched out and such. (51:30) Discussion of crops continues for several minutes. (1:01:44)
- Monroe said the GMP Committee has reviewed other plans in different areas. Monroe asked if change applications can be put on hold until a plan is established, change the policy currently in the basin, or can a portion of the GMP be drafted right now that addresses the issues? (1:02:45) Jones reiterated the difficulty of forfeiture, but said his office supports if there haven't been efforts to reclaim water from springs and if there is impairment of other rights. (1:04:30) He suggested a legislative fix may be the way to prevent these things. (1:05:20) Prestwich said the GMP Committee has talked about surface rights that are changed into groundwater. The GMP Committee believes there should be a period where the water is measured and be transferred to groundwater based on what the State Engineer's feeling is about the surface water. The problem we've had is the surface water is gone. The GMP Committee made a motion to recommend to the State Engineer that the water be measured for five years. The amount of water that be transferred to groundwater should be based on the flow of the stream. (1:06:30) Prestwich provided an example of this. The stream measurements were made years ago.

Prestwich said current data is needed before transfers can be looked at. Jones said he thinks his office would be supportive of getting updated data. (1:08:40) Transfers are based on flow and if the flows are not measured, how can we have an accurate measurement of the flow. Prestwich said they need real time monitoring. (1:10:30)

3. Recommendation of drafting of the GMP plan and future direction

- Jones would like to hold public meetings before any decisions are made.
- James Greer said the last public meeting for the GMP Committee was in December where information was presented regarding the safe yield and diversion and depleting numbers. It appears that about 7,000-8,000 acre feet of water is being used that is not recharged each year. They received a lot of comments as a result of the public meeting and they have drafted a response to those who provided comments and that will be sent out shortly. They have been looking at the rights and spring issues more carefully. (1:26:50) The State Engineer's office has looked heavily about splitting the basin into sub-basins. Their response letter will address that. There were some comments about mountain block wells and they have looked at that. There were a lot of comments on the recharge projects and they would like to have a better understanding of the recharge projects and how they can help the safe yield. (1:28:00). They have talked about the policy in the area and how it can be changed and they'd like to discuss those policy ideas with this group and how those changes could impact the water rights in the area. Moving forward, they would like to get some draft policy ideas discussed and how do we draft a GMP. The State Engineer's office is heading the direction of discussing the GMP draft. (1:29:20)
- Jones said they are willing to meet with the GMP Committee whenever they'd like to meet and talk. He sees his office working with the GMP Committee to discuss the issues and see what can be done to get them resolved. (1:29:50) He is hoping by early Fall, they can work on some solutions to policies and come to some resolutions. Next Spring or even late Fall they will look at public meetings. They will talk about policy and the steps we are going to take to pursue a Groundwater Management Plan at these meetings. (1:30:45) Jones said this Groundwater Management Plan is the State Engineers plan, but it certainly and should be influenced by local advisory grounds like this one. Jones has been part of the governors Water Strategy Committee to help meet water needs in 2060. There ended up being eleven committees working on different issues. Action committees are very important in making these decisions. (1:31:50) Jones hopes a year from now, there will be a plan ready. This Fall and Spring, we need to come up with these ideas.
- Melling asked that as soon as they have some drafts prepared that they meet with the GMP Committee. (1:33:00) Jones agreed and said he would like to meet with the GMP Committee before holding a public meeting. He would like to refine the water rights data and layout some ideas for drafts. That will help this committee think about their recommendations. (1:34:35)
- Reid Erickson asked if the State Engineers office needs additional information on the recharge projects and the impacts they have on the current water situation. They don't have any information yet. (1:35:05) Ramon Prestwich said Paul Cozzens has been working on a project out by Quichapa Lake. In addition, another area has been discussed for the potential project of impounding water before it reaches Quichapa. (1:36:00) There is a natural area the can be further built up. The debris basins are completed. Greer said that more data will be needed to account for the impact recharge projects have on the water situation. (1:38:20) Melling suggested additional monitoring of the groundwater needs to be done. He suggested a fall measurement to better determine impact on groundwater conditions. The fall measurement gives a better idea of what happens during pumping times. (1:40:00) Greer said similar recharge projects measure how much water is put into the pond, estimate how much is evaporating, and do a mass balance of how

much is being recharged. **(1:41:00)** Monroe said there is money in these budgets for measuring devices for these projects. **(1:42:20)**

- Melling asked that the State Engineer meet with the GMP Committee in a couple of months. Jones said everything should be ready in a couple of months. The committee can review the draft ideas. **(1:45:30)** Hunter would like the committee to spend some time to discuss before they meet again. **(1:46:30)**

4. Public Comment (Limit to 3 minutes each)

- Doug Hall said he has seen people watering ten acres of grass and when asked why they said they had to use their water rights or else they'd lose them. Could the State send the policy to water right holders and let them know the steps to put their water on hold? Making people more aware of what the policy is could help prevent this. The GMP Committee should be looking at what they can do to make some changes in the legislature since the State Engineers hands are tied on a lot of issues. **(1:24:50)**

5. Next Meeting Date

- August 10, 2017 Cedar City Council Chambers