

Groundwater Management Plan Committee

October 12, 2017

12pm – 2pm @ Cedar City Council Chamber

Committee Members in Attendance

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

Others in Attendance

Doug Hall	Kent Jones	Teresa Wilhelmsen	Mandi Williams
Nathan Moses	James Greer	Boyd Clayton	Locke Hahne
Shelby Ericksen			

Minutes

Review Minutes

Chairman Melling called the meeting to order at 12:18pm.

Motion to approve minutes by Reed Erickson

Second by Brent Hunter

Motion unanimous at 12:19pm (6:20)

Cedar City Valley water policy update, State Engineer

▪ Kent Jones thanked Melling for the chance to meet with the Committee. He said they need input from local water users to ensure they are heading in the right direction. They have been looking at data and analyzing policies. They have come up with a draft policy for the Cedar Valley area. The State Engineer would like to come to the Cedar Valley in the spring to announce what the groundwater policy is. **(8:00)** Kent Jones read the introduction of the draft. The appropriation for area 73 has changed. He presented three main points.

1. The boundary not allowing changes between north and south subareas will be removed.

2. Applications to appropriate consumptive ground and surface waters shall be rejected with the exception of surface water from terminus lakes, Rush Lake and Quichapa Lake. Applications for surface water from terminus lakes proves subject to statute to the extent that the water to be appropriated would not otherwise recharge the groundwater aquifer. Such appropriations shall have no call on other water rights and shall be restricted if proposed by change applications for movement of the point of diversion from the lakes to other points of diversion. This makes it clear that some waters in the valley that may not get into the aquifer system that might be available for appropriation and use, but would be restricted to where they are and would have no call either now or in the future to require water to be sent down to those terminus lake areas. **(10:25)**

3. Change applications proposing to move existing surface waters to a groundwater source shall generally be rejected unless the water is for recovery of water from an approved aquifer storage recovery project or if the existing surface source on the water right is sufficiently isolated such that there is a functional mechanism to abandon the historic point of diversion for the benefit of the local aquifer without expansion of existing rights. Only that quantity of water available at the surface source shall be considered when evaluating such proposals. Example: Showing that a surface source cannot be diverted and put into the aquifer would be considered. If the water is not getting into the groundwater, it would be an expansion on the water right and would likely be rejected. **(11:45)**

Discussions about heavily pumped zones in the Valley (Quichapa and Enoch areas specifically). Kent Jones is concerned how to set limitations on those heavily pumped zones. He would like to not encourage

increased development in those areas. ▪Hunter asked if that would prevent Cedar City from transferring additional water rights into their established well. Kent Jones said he thinks it will and would like input from the Committee. (14:25)

Kent Jones stated that he has been struggling with spring flows, and read a note he'd wrote down about those flows. "Where it can be demonstrated that spring flows are being impacted by groundwater withdrawals, change application will be approved to replace those amounts of water that can be documented as to the limits of the water actually put to beneficial use." If springs are going down because of wells, there should be something that the water user can do. If the springs have not been used in 50 years, they may not be able to do anything. (16:20) In these cases Kent Jones would like to see proof that the spring has decreased.

▪Monroe asked if people in the 1800s would have gone into the State Engineer to get those approved, they would have the right to use that water. It was a spring that could potentially flow at that volume, but probably never did. ▪Kent Jones said they encouraged water use over time. Water users never show the lows when applying to transfer water rights. He explained that in the Weber Valley Basin they have been cutting water users back by one-tenth depending on the water records. (19:30)

▪Kent Jones said forfeiture is a court process. There is a protection in the code that says if the water is not naturally available at your point of diversion, you are not subject to forfeiture. What they have done in decisions in the past is that they've denied change applications if water users have not done what they should to use that water. ▪Hunter said he has a neighbor farm that has a water right and has not farmed in 50 years. Should the Committee take the initiative to go to court and remove those types of water rights? (22:15)

▪Hunter asked why the State does not handle forfeiture. ▪Kent Jones said it is handled in the adjudication process, and stated that they are not planning on doing the adjudication process again in Cedar Valley for a long time. He would like to see the entire State redone, but they need to finish the State first before doing it again. (27:10) The State Engineer does not have the power to forfeit water rights according to the Supreme Court without taking them to court. The State Engineer has the power to look at rights on a change application and the power to declare impairment if a water right has not been used in 90 days. They can deny change applications now, but cannot declare the water rights forfeited. (30:05) The courts have not been overly supportive of forfeiture applications in the past, but if there is sufficient evidence, it is possible. ▪Melling asked what kind of evidence they submitted that the court accepted. ▪Kent Jones said they had documentation of diversions, times the rights were used and not used, etc. The rights had not been used, so that did not work in their favor. The springs are in more of a gray area because they may qualify for exemptions of forfeiture. (33:40) ▪Cozzens said 10% of water used by Cedar City comes from springs. ▪Kent Jones said spring rights need to be protected in some way. ▪Monroe asked about the north and south boundary of Highway 56. Water rights on the south side of Highway 56 are about \$1000 more expensive than the north end. Would the policy allow water to go north and not so much to the south?

▪Spencer Jones said the prices are almost double currently between the north and the south. ▪Nathan Moses wonders if the division has exasperated the problem. ▪Prestwich said they are looking for the best water and worries that water from the North will be transferred to the South. It does not have to do with water quality as much as water availability. Moving the boundary will cause more of a problem in the south. Prestwich worries there will be an explosion of movement if the boundary is removed. (40:50) There have been talks about developing a senior community, but they need a lot more water rights.

▪Reed Erickson asked what the motivation is for removing the line. The water was mounding in that area before and that is why the line was created. *Discussion about the line and the history continued for several minutes.* (45:40)

▪Greer said the removal of the line allows flexibility as water supplies are stabilized. ▪Bittmenn said they have maps that show where the water is low. Bittmenn suggested focusing more on not allowing water into certain pockets as opposed to going off of the line. ▪Prestwich asked whether or not there is

legislation that needs to be passed in order to deny water rights from being moved into depleted areas.

▪Kent Jones said they can oppose those based on impairment. (50:00) ▪Prestwich asked what the State Engineer would like the Groundwater Management Plan Committee can do. ▪Kent Jones said the discussion they have been having has been helpful. He would like to know what concerns the Committee has in order to take those into account in the Groundwater Management Plan. He would appreciate it if the Committee gets those concerns to the State Engineers Office. (51:50)

▪Spencer Jones asked about the Parowan and Enoch areas and what/if there are plans for that area. ▪Kent Jones said to encourage more development in those areas does not seem wise. He said if there was water recharging in that area, it may help. ▪Cozzens said Cedar City is looking at using wastewater affluent to recharge the Enoch area. A study has been done in the area and will be published soon. (55:20) ▪Dotson said he thinks it may be productive if the change of the line from Highway 56 does not happen right away. Dotson would like to see some issues solved before the line is removed. Kent Jones said that policies can be developed to be modified in the future. ▪Bittmenn said that if Highway 56 is a dividing line that no longer works and create something that does, he would be supportive of it. (58:00) ▪Kent Jones said progress is being made and he would like to hear input from the Groundwater Management Plan Committee. (1:02:20) A public meeting will be held eventually to discuss the plan with the Plan. Hunter asked if the ideas the Committee has come up with have been communicated. Monroe said the State Engineer has a draft outline from the Committee and those ideas have been shared. (1:04:20)

Groundwater Management Plan drafting the plan

▪Kent Jones said by statute, he has the authority to develop a Groundwater Management Plan. It is his responsibility. The statute allows water users in the area to come up with how they would like that incorporated. Under statute, he needs to come up with this plan. He would like his plan to be the Committee's plan as they work together. (1:06:30) ▪Cozzens said Dan Jensen with the County has come up with a spreadsheet that shows how different actions will affect the groundwater. ▪Kent Jones said he would like to see that. (1:08:20)

Agricultural Incentive Conservation Update

▪Monroe said the Committee is working hard with local legislators to hopefully incentivize farmers to farm more efficiently. He said 4000 to 6000 acre-feet can be saved by farming more efficient. (1:10:50)

▪Kent Jones said some of the water put on crops is recharged into the ground. He does not want to see so much efficiency that there is not recharge. ▪Cozzens said the bubblers can prevent water loss due to wind and evaporation especially in the Cedar Valley. (01:13:20) ▪Prestwich said the County has not paid for the cloud seeding yet. He asked if the County is interested in continuing cloud seeding. ▪Monroe said Dan Jensen said they approved the payment this year, but they will not be paying anything that went unpaid in the past. Monroe will follow up. (01:18:20) ▪Melling would like cloud seeding added to the agenda for the next month. (01:19:20)

▪Melling said he is Chairman of the Committee and he will not be able to be at every meeting going forward. He will be having a surgery.

Cozzens made a motion to put Paul Bittmenn as the Vice-Chairman of the Committee. Second by Dotson.

Motion unanimous with exception of Bittmenn at 1:36pm. (01:23:20)

▪Dotson suggested splitting up items based on experiences of the Committee. Paul Bittmenn will do that for the next meeting.

Paul Cozzens and Spencer Jones left at 1:38pm.

Melling had Boyd Clayton, Locke Hahne, Nathan Moses, James Greer, and Teresa Wilhelmsen introduce themselves.

Melling adjourned the meeting at 1:40pm