

# ClydeSnow

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March 16, 2023

**VIA EMAIL**

Attn: Parowan Valley GWMP  
Utah Division of Water Rights  
PO Box 146300  
Salt Lake City, Utah 84114-6300  
[waterrights@utah.gov](mailto:waterrights@utah.gov)

Re: Comment to Parowan Valley Groundwater Management Plan

Dear Division of Water Rights,

This Firm represents those water users listed below ("Respondents") and respectfully submits this comment ("Comment") to the Parowan Groundwater Management Plan. In general, the Respondents commend the State Engineer on their efforts and support the DRAFT Parowan Valley Groundwater Management Plan as presented on January 9, 2023 ("DRAFT GMP"). The DRAFT GMP sufficiently meets the goals of Utah's Groundwater Management Plan Statute<sup>1</sup> ("GMP Statute") and properly ensures groundwater withdrawals do not exceed safe yield, safeguard the physical integrity of the aquifer, and protect water quality.

In support of the DRAFT GMP, this Comment responds to issues raised in two filings by Roberts Legacy, LLC, filed on January 6, 2023, and February 22, 2023 ("Roberts Comments"). The Respondents urge the State Engineer to approve the DRAFT GMP as presented and not to adopt a North Parowan Valley Plan and a South Parowan Valley Plan as recommended in the Roberts Legacy LLC, Comments. The proposal to create two groundwater plans for Area 75 is not supported by the best available science and does not represent the principles of prior appropriation. Accordingly, the proposal does not meet the criteria for approval under the GMP Statute and cannot be considered by the State Engineer.

- I) The Best Available Data Modeled the Parowan Valley – Area 75 As One Hydrologic Unit Requiring the State Engineer to Adopt the DRAFT GMP as Currently Proposed**

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<sup>1</sup> Utah Code Ann. § 73-5-15.



The GMP statute<sup>2</sup> requires the State Engineer to “use the best available scientific method to determine safe yield.” In this case, the supporting data has analyzed the entire Parowan Valley, or Area 75, as one connected aquifer.

To prepare the DRAFT GMP, the State Engineer primarily relied on two 2017 USGS reports to analyze the groundwater conditions for the Parowan Valley. The first, Scientific Investigations Report 2017-5033, authored by Thomas M. Marston (“Marston Report”), used a water budget approach to analyze the Parowan Valley. This report concluded that safe yield for the Parowan Valley aquifer is 18,400 acre-feet per year. The second, Scientific Investigations Report 2017-5072, authored by Lynette E. Brooks (“Brooks Report”) is a computer model-focused report incorporating basin-specific data and evaluating flows between basins. This model is based on Parowan basin-specific data and extrapolates other groundwater basins within the Great Basin of Utah and Nevada. This report concluded that safe yield for the Parowan Valley aquifer is 22,000 acre-feet per year. The State Engineer has adopted 22,000 acre-feet as safe yield for Parowan Valley in the DRAFT GMP.

The Marston and Brooks reports analyze the Parowan Valley as a single interconnected hydrologic unit. The Marston Report found, “Groundwater movement is from north to south in the northern part of the valley, and from east to west in the southern parts of the valley. The general direction of groundwater movement in the valley is toward the historical discharge zone associated with Little Salt Lake.” When assessing water quality conditions across the valley,<sup>3</sup> the Marston Report concluded, “the northern part of the valley is hydrologically connected to the southern part.” The Brooks Report found that the Parowan Valley aquifer could transmit groundwater horizontally throughout its saturated thickness. The 2017 Brooks Report was an update to a 2014 report by Brooks utilizing the same computer model simulation methodology and found that with more data, the “Transmissivity was increased in Parowan Valley.”<sup>4</sup> Similarly, to come to a safe yield, the model used a dynamic analysis of inflows and recharge between 1950 to 2012 to find that “reducing withdrawals in Parowan Valley from 35,000 to about 22,000 AF per year would likely stabilize groundwater levels in the valley.”

The GMP Statute defines safe yield as the amount of water that can be withdrawn from a groundwater basin over a period of time without exceeding the long-term recharge or unreasonably affecting the basin’s physical and chemical integrity. The State Engineer’s decision to rely on a 22,000 AF safe yield depends on data reflecting inflows, recharge, and groundwater movement across all of Area 75. Accordingly, the best available science analyzed Area 75 as a single hydrologically connected unit.

<sup>2</sup> Utah Code Ann. § 73-5-15(3)(c)(i).

<sup>3</sup> The water from the northern part of the valley is characterized as a calcium-magnesium bicarbonate type, whereas water from the rest of the valley is characterized as a calcium-magnesium chloride to sodium-magnesium chloride type, depending on the proximity to Little Salt Lake. The chemical evolution of water originating in the northern part of the valley is similar to the chemistry of water observed around Little Salt Lake, indicating that the northern part of the valley is hydrologically connected to the southern part.”

<sup>4</sup> “Transmissivity was increased in Parowan Valley, mostly as a result of having more calibration data than previous versions.”



As the Roberts Comments recommended, splitting Area 75 into two groundwater plans would reflect conditions not modeled or studied. Adopting two plans would be counter to the best available science and jeopardize the State Engineer's ability to support its finding of a 22,000 AF safe yield. The Respondents urge the State Engineer not to comply with the requests of the Roberts Comments and to issue the DRAFT GMP as currently stated.

**II) The DRAFT GMP Reflects the Principles of Prior Appropriation, Whereas the Roberts Approach would create an Inequity Among Water Users and Create Conditions that Allowing Junior Users to Divert Ahead of Senior Appropriators.**

Utah has adopted the prior appropriation system as the legal model to organize and order its water rights. As a central tenant of the prior appropriation system, Utah law has determined that "between appropriators, the one first in time is first in rights"<sup>5</sup> and "appropriators shall have priority among themselves according to the dates of their respective appropriations so that each appropriator is entitled to receive the appropriator's whole supply before any subsequent appropriator has any right."<sup>6</sup> Reflecting the principles of priority, the GMP Statute requires the State Engineer to "base the provisions of a groundwater management plan on the principles of prior appropriation. Accordingly, any groundwater management plan needs to ensure that the provisions of the plan do not impair senior water right holders.

The DRAFT GMP properly addresses priority regulation to meet the needed 11,000 AF per year reduction in groundwater withdrawals by curtailing groundwater dates based on priority. Accordingly, the DRAFT GMP meets the requirements of the GMP Statute and should be approved as currently stated.

The Roberts Comments propose creating a North Parowan Valley GMP and a South Parowan Valley GMP – this would disrupt priority distribution across the Parowan Valley and be counter to the Letter and intent of the GMP Statute. The Roberts Legacy, LLC Comments base this recommendation on "The Division's groundwater policy in the Parowan Valley [which] has divided and treated the north and south subareas, "generally delineated by the southern boundary line of T32S," as distinct groundwater basins since February 7, 1972, preventing change applications from moving water between the two subareas."

The Roberts Comments are correct that the State Engineer has, for administrative purposes, designated two subareas between which change applications have not been allowed since February 7, 1972. However, creating subbasins for change application purposes does not ripen into grounds for two separate and distinct "groundwater basins," each meriting a groundwater management plan. On the contrary, State Engineer precedent has frequently administered change applications on a sub-basin level but adopted a groundwater management plan for the whole area. For example, there are two subareas in the Cedar City Valley Area 73, delineated by Highway 56, between which change applications are not allowed, yet the State Engineer's Groundwater Management Plan adopted in 2022 regulates all of Area 73 as a single

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<sup>5</sup> Utah Code Ann. § 73-3-1.

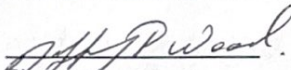
<sup>6</sup> Utah Code Ann. § 73-3-21.1.



basin.<sup>7</sup> In Area 15, the State Engineer has adopted a distinct change application policy for the Tooele Valley Subarea and the Rush Valley Subarea but regulates all Area 15 – Tooele and Rush Valleys as one groundwater unit.<sup>8</sup> Similarly, in Area 57 – Eastern Salt Lake Valley, one of the most complex areas of the State, the State Engineer has created 4 Regions that govern transfer and Change Applications across Area 57 but still regulate the whole area as one unit in terms of priority distribution.<sup>9</sup>

Dividing the Parowan Valley into the Northern Parowan Valley and the Southern Parowan Valley would essentially create two competing priority systems diverting from the same hydrologically connected aquifer. This would allow junior users in one area to divert ahead of senior water users in the Southern Parowan Valley. This contradicts the non-impairment principles of the prior appropriation system and directly conflicts with the requirements of the GMP Statute.

**WOOD FARM, INC**

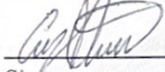
  
Signature

3/17/23  
Date

Jeffrey P Wood  
Name (print)

President/owner  
Title

**HA FARMS**

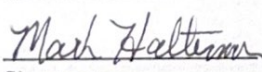
  
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Cox Stowell  
Name (print)

President/owner  
Title

**HALTERMAN BROTHERS, INC.**

  
Signature

3-17-23  
Date

Mark Halterman  
Name (print)

President/owner  
Title

<sup>7</sup> [State Engineer Policy Page for Area 73 – Cedar City Valley.](#)

<sup>8</sup> [State Engineer Policy Page for Area 15 - Tooele and Rush Valleys.](#)

<sup>9</sup> [Salt Lake Valley Ground-Water Management Plan – Area 57.](#)

**JASON HALTERMAN FARMS, INC.**

Signature

Jason Halterman

Name (print)

Date

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**LEON ROBINSON FARM, INC.**

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**ROY ADAMS FARMS**

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Date

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President

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**SCOTT STUBBS FARMS**

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Scott Stubbs

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**TONY ORTON FARMS, INC**

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Tony Orton

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President

Title