

**TOOELE VALLEY UNDERGROUND CHANGE APPLICATION POLICY
PUBLIC MEETING
APRIL 24, 2008**

This meeting was held in the Tooele City Council Chambers located at 90 North Main Street in Tooele. Notices were mailed to all persons who had pending unapproved change applications in the valley. In addition, several public agencies were notified and a press release was issued to local media outlets.

Assistant State Engineer Kent Jones started the meeting at 10:00 AM by welcoming those in attendance and noting that attendance roll sign-in sheets were being distributed throughout the auditorium.

Mr. Jones stated that the focus of this meeting was to discuss interest in and a proposal for establishing guidelines for the Division of Water Rights to follow when considering change applications filed within Tooele Valley. Mr. Jones noted that statutory criteria for reviewing change applications included issues of impairment; unappropriated water in the proposed source; economic and financial feasibility of the proposal; the ability of the applicant to financially complete the project; whether the application was filed for the purpose of speculation or monopoly; and whether the application would unreasonably affect public recreation, and the natural stream environment or prove detrimental to the public welfare. Beneficial use as allowed by the underlying right was stressed as being the basis, the measure, and the limit of all rights to the use of water in the state of Utah.

Mr. James Greer, an engineer with the Division of Water Rights, presented slides detailing the basic hydrology of the groundwater aquifer in the Tooele Valley and the groundwater model developed for the area by the USGS. Mr. Greer explained that the valley was divided into three zones, and by using the USGS groundwater model and information gathered from the Division of Water Rights database, the amount of recharge and the amount of permitted water use were compared for each zone. Additionally, Mr. Greer presented a scenario showing potential drawdown if all of the permitted water rights in the valley were fully utilized. Issues of potential over-appropriation and interference existed in the central and especially the eastern zone. Based on this information two proposed policy changes were presented to limit moving points of diversion eastward.

The first potential policy, presented by Mr. James Greer, states that a point of diversion would be allowed to move along its given flow path, as far west of its flow path to the drainage boundary, and a maximum of 4 miles east perpendicular to its flow path. Mr. Greer noted that the flow path for a given point of diversion is generated using the USGS groundwater model. The second potential policy states that change applications would no longer be approved that moved a point of diversion into what was termed the "eastern zone" as displayed in the presentation.

Mr. Greer concluded his presentation noting that if any proposed policies were implemented, an online tool would be provided that would allow the public to view

where any given point of diversion would be allowed to be moved based on the policy. The tool will be available on the Divisions website at www.waterrights.utah.gov.

At the conclusion of Mr. Greer's presentation, Mr. Jones then opened the meeting to questions and comments from the participants.¹

Comment: I have had water in the central area of the Tooele Valley for a number of years, and I am concerned about excess water in the west and the desires to be able to use that excess water in the east. The over appropriation and the potential of impact on property values in the west is severe.

Q: What is the possibility of the retirement of old water rights that are used for grazing for people dependent on springs? Spring flow volume is affected by 50% when up-gradient pumping begins. Is there potential compensation of water right owners by the state for losses and inconveniences?

A: We doubt this is a possibility based on the new legislation received this year.

Q: How far south does this policy effect?

A: The policy would only affect the Tooele Valley.

Q: What is the date by which this policy will apply? Are pending unapproved applications going to be grandfathered into this policy?

A: The policy developed will be effective on the date of the notice for the meeting (April 16, 2008). It is likely that pending unapproved applications will be grandfathered into the policy.

Q: Where did the 4-mile eastern movement restriction come from, is the evidence empirical or is there some other justification?

A: The entire area was divided into zones of major influence and the distance between these zones was approximately 4 miles. We realize that the farther a point of diversion is moved the greater the change in the impact will be on the system. The 4-mile guideline was to allow for flexibility but theoretically would not increase the problems on the eastern side of the valley.

Q: What is the procedure for acting on pending changes, which are holding up projects causing large expenses?

A: Once the policy is issued, we will know how to determine the status of the applications and they will be acted on.

Q: How long before the policy is in effect and can the process be sped up?

¹ These minutes will contain some detail regarding questions and comments submitted verbally at the meeting. For the sake of brevity, the comments and questions will be summarized in an effort to portray the primary issue addressed. Some questions or comments were deemed to be related to issues not directly pertinent to the purpose of the meeting and will not be included here.

A: We must at least wait to have input from the water users and will allow until the 30th of May 2008 for public comments. The comment period can be shortened but the comments are essential.

Comment: It was requested that all pending application be acted on. There are many questions about the science and the findings and there is a lot of money on water rights that may loose their value – would the State Engineer model this case after the Eagle Mountain scenario where they protected the water users interest.

Q: Was the USGS study used to develop the policy?

A: Yes, the data used for the groundwater model was from the 1999 study completed by the USGS.

Q: To generate the total use scenario in the groundwater model were all approved water rights used.

A: Yes, all approved water rights were used.

Q: Will the policy apply to changes on points of diversion and place of use?

A: This policy only applies to where the water is withdrawn (point of diversion) not where the water is to be used (place of use).

Q: What about surface water rights with earlier priority dates being affected by underground rights with later priority dates?

A: In Cache Valley our office has allowed changes to underground wells from springs because the springs were reduced due to pumping. Options similar to this may be available in this area as well.

Q: There are big Tooele wells south of Erda causing problems with the water table in wells especially shallow wells. What is to be done about Erda wells impacted by Tooele pumping their wells?

A: Each application is reviewed on its own merits; if there are impairment issues then the protestant must demonstrate that an impairment/harm has occurred.

Comment: Private water users are not able to take on cities with deeper pockets. It is felt that the Division of Water Rights should take responsibility to assist the private water users.

Q: Now that the groundwater model and flow is understood, why allow any changes east? The 4-mile limitation seems to be excessive.

A: We felt that the 4-mile limit allowed for flexibility and would imit further impact. We will review closely the comments and if justified this limit could be further restricted or expanded to something other than 4 miles.

Q: Will the boundaries change when a new groundwater model is generated by the USGS? The new model being developed by the USGS incorporates the bedrock into the system.

A: Yes, but we do not expect there will be a large fluctuation in the boundary area. New information will be evaluated and the model will be adjusted accordingly.

Q: Is the quality of the water considered when making a decision on a change application?

A: Yes, we will continue to consider how to look at quality issues when filing a change, but water quality is not addressed by these two proposed policy changes.

Q: Is water being taken from the Tooele valley and being moved into Salt Lake City?

A: Yes, water is being physically conveyed from the Tooele Valley to Salt Lake Valley. A change application requesting to move a point of diversion from the Tooele Valley to Salt Lake Valley would not be approved.

Q: Based on what is occurring with Nevada and the water wars, will we be facing the same problems with SLC?

A: We have not seen the same problems here, but if we did we would then address those problems under the current system of law.

Q: Since the August meeting concerning the over appropriated area, are approvals being issued at this time?

A: No.

Q: How is the issue of over-appropriation going to be addressed?

A: Over appropriated areas are being closed to not make the problem worse. To address an area where actual use is exceeding the safe yield a groundwater management plan would need to be established which would provide tools for the State Engineer to address the problem.

Q: Are changes from historic use allowing partially used water rights to enlarge in the process?

A: Changes are evaluated on the beneficial use of the water right and should not be allowed to enlarge their effect on the system. House Bill 51 enacted in the latest legislative session may have come impact on what the State Engineer is allowed to do.

Q: Would a western movement be allowed?

A: Yes, the point of diversion would be allowed to move west from its given flow path.

Q: What is the State Engineer going to do about election based Water Rights that have never been used, and now they are being sold, and put to use?

A: Beneficial use needs to be shown for a change to be approved, but again, House Bill 51 may have some impact on what the State Engineer is allowed to do.

Q: How would you act on mixed proposals moving some water west and some water east? Would the policy allow for offsets?

A: We have not looked at this specifically and it can be addressed if warranted.

Comment: According to the Corp of Engineers there is less water being pumped now than has been historically. This area is all one big aquifer.

Q: Why are we expediting changes when we haven't acted on certain applications for 40 years? How do we defend ourselves when we can't afford to hire attorneys?

A: Jim Gowans responded that he understands the frustration and emphasized a need to follow up on these issues with additional meetings.

Mr. Jones closed the meeting by thanking all in attendance for their interest and participation in the planning process. Comments should be submitted by mail on or before May 30, 2008. The meeting concluded at approximately 11:30 AM.