



State of Utah
School & Institutional
Trust Lands Administration

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December 10, 2018

Via email (kentljones@utah.gov)

Kent L. Jones, P.E.
Utah State Engineer
Division of Water Rights
1594 West North Temple, Suite 200
Salt Lake City, UT 84114

Dear Mr. Jones:

Re: Comments on Rush Valley Water Rights Policy Meeting

The Utah School and Institutional Trust Lands Administration (“SITLA”) attended the Rush Valley Water Users public meeting that you and the Division of Water Rights (“DWRi”) staff held on November 8, 2018 in Tooele. SITLA appreciates the efforts of the DWRi’s staff to schedule the meeting, the excellent presentation that was made and explanation of the proposed policy.

Based on the presentation of the various elements in the proposed policy, SITLA offers the following comments for your review and consideration, and which hopefully will be addressed in the final policy:

1. Unique nature of Rush Valley and its three sub-basins: The groundwater flow system in Rush Valley is a challenge to clearly understand and manage. The basin-fill aquifer is divided into two units, the upper basin-fill aquifer unit (“UBFAU”) and the lower basin-fill aquifer unit (“LBFAU”). The basin-fill aquifer units do not contain uniform deposits and their hydrologic properties vary greatly. The LBFAU includes the Salt Lake Formation which in other areas has not been a favorable target for good production wells. While SITLA believes there is unappropriated water in Northern Rush Valley, we realize it will be difficult to develop and will require extensive hydro-geologic study and test well drilling to identify those area(s) best suited for wells that will produce reasonable quantities of good quality water. Such studies and test well drilling will require considerable resources and commitment to accomplish. As you know, many of the wells drilled in Northern Rush Valley do not produce significant quantities of water and many times the quality is marginal.

SITLA believes the US Geological Survey's Scientific Investigations Report 2011-5068 ("USGS Study") gives some indications of where and how water might be developed. We strongly believe the proposed policy needs to take into account the difficulty of developing significant quantities of groundwater into consideration and provide incentives to water users to invest in these types of studies to find those areas where production wells can be drilled that have suitable water quality. The proposed 20 acre-feet per application does not provide the needed incentives to conduct hydro-geologic studies and test well drilling, and will foster a hit and miss approach to groundwater development that has plagued the valley for several decades. SITLA welcomes the opportunity to work with the State Engineer and others on this critical effort.

We respectfully request that the State Engineer consider a larger application quantity to appropriate water where the applicant can clearly demonstrate a need for the water and has the financial ability to do the necessary investigation(s) and drilling. To help us better understand the logic and bases for the proposed policy will you please provide the data and information that was used to determine the 20 acre-feet as the limit for new appropriations in Northern Rush Valley.

2. Unappropriated water: In your slide presentation and with the proposed policy, the State Engineer clearly acknowledges there is unappropriated water in Northern Rush Valley. As we presented at the hearing regarding our four Applications to Appropriate Water, we believe there are substantial quantities of unappropriated water in Northern Rush Valley. We agree that the approach taken in the USGS Study is not as clear and detailed as it might have been. In our discussions with the author of the USGS Study, it is apparent that he included significant irrigated lands within the evapotranspiration estimates. We evaluated all perfected, approved and unapproved ground-water rights in Northern Rush Valley and subtracted their potential withdrawals from the ET estimates to determine what we believe to be the amount of unappropriated water. It appears the DWRi staff did a similar exercise but came up with a different figure. We would request that the DWRi make a copy of your water rights evaluation available so we can review the work and identify where and why there are differences.

We believe that there is unappropriated groundwater in Northern Rush Valley. The state engineer has the statutory duty to approve applications to appropriate water if there is unappropriated water and they meet the other statutory criteria. In addition, there are numerous court cases which reinforce this concept.

3. Good business practice: SITLA has a legislative mandate to achieve maximum benefit from its lands for the benefit of Utah's public schools. This includes investing in those lands to achieve that maximum benefit. Therefore, SITLA filed the four applications to appropriate groundwater in Northern Rush Valley. SITLA currently owns over 19,000 acres in the St. John and Tooele Army Depot blocks, which have been identified to have significant development potential. To develop this property, we need water and thus our interest in the proposed policy and the reason we filed our applications to appropriate water. We believe that our applications were not speculative; rather they are good business practices that any prudent landowner would undertake.

4. Best beneficial use: As the State Engineer stated near the end of the public hearing, he has a responsibility to make decisions based on the best public welfare, and also to put the waters of the State of Utah to their best beneficial use. These two objectives are exactly what SITLA wants the State Engineer to achieve both in the proposed policy and in actions on water right applications. SITLA recognizes that these two objectives require difficult decisions that may not reflect the popular opinion in Northern Rush Valley. Nevertheless, we urge the State Engineer to make the responsible and difficult decision that will allow the valuable groundwater resources of Northern Rush Valley to be developed and provide the resulting benefits to the local, regional and statewide economy.

Thank you for considering these comments and questions. We look forward to the next step in modifying the proposed groundwater policy for Northern Rush Valley. If you have any questions or need additional information, please contact me at 801-538-5100.

Sincerely,



Elise Erler
Deputy Assistant Director, Development

cc: Michael Drake, Regional Engineer (via email)