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DEPARTMENT OF NATURAL RESOURCES

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Division of Water Rights

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State Engineer/Division Director

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Gary F. Player
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Dear Sir:

The State Engineer held a public meeting on January 7, 2016 to present water right and hydrologic data and to discuss the steps to develop a groundwater management plan for Cedar City Valley. Written comments and questions from the meeting were received. Responses to the comments and questions are enclosed.

We appreciate those who submitted comments and welcome input as we move forward with this important effort.

Sincerely,

Kent L. Jones, P.E.
State Engineer



Priority Regulation

1. *How will the State Engineer determine the priority date at which water rights will be cut back? [Cedar City]*

The priority date will be set such that depletion from actual well withdrawals and use do not exceed safe yield. Groundwater levels will be monitored, and as in the Beryl-Enterprise area, the priority cut will be determined based on the reductions necessary to get the water levels to stabilize on an incremental basis.

2. *Will the priority date be cut down all the way to safe yield, or will additional water rights be "left on the books" to account for water rights not being used? [Cedar City]*
3. *If water rights are left on the books, how can it be assured that safe yield will be protected in the future when water rights are put back into use? [Cedar City]*

Priority distribution is not forfeiture. No rights will be removed from the records of the state engineer as a result of priority distribution.

If rights are regulated by priority, water will be distributed first to the senior priority rights. To ensure the maximum amount of available water is put to beneficial use, if any of these senior priority rights are not used, the next rights in priority will be allowed to divert the unused water.

Water use will need to be reported and verified. If unused rights that have not been declared forfeited by the judiciary come back into use, the priority date at which water rights will be cut back will have to be adjusted so average annual well withdrawals stay within safe yield.

Managing on the basis of safe yield is an ongoing monitoring and management activity rather than a one-time action.

4. *How many rights are currently being held in non-use? [Cedar City]*

77 applications for nonuse were active as of 5/4/2016. The diversion and depletion estimates for these rights sum to about 2,800 diversion and 2,200 acre-feet depletion (including 1,400 acre-feet for mining diversion).

The fact that a nonuse application has been approved does not necessarily mean the water right is in fact not being used. Many nonuse applications are filed as contingency plans in case all or a portion of the water isn't used in the future. There is no requirement water not be used when a nonuse application is approved.

Regulating North and South Sub-Basins Separately

5. *What is the safe yield of the sub-basins south of SR-56 and north of SR-56? Will there be an attempt made to define the safe yield of each sub-basin? [Cedar City]*

13. *Will there be an overall economic analysis done to show the impacts of the proposed implementation strategies? [Cedar City]*

73-5-15 (4)(b) states: "When adopting a groundwater management plan for a critical management area, the state engineer shall, based on economic and other impacts to an individual water user or a local community caused by the implementation of safe yield limits on withdrawals, allow gradual implementation of the groundwater management plan."

We may allow a gradual implementation of the plan. We don't expect potential economic impacts to be the only factor determining the proper timeframe for this gradual implementation. Other issues, perhaps including how long it would take to complete artificial recharge and other water projects, will also be considered.

Earth fissures and subsidence might be greater the longer the full implementation of the management plan is delayed. The management plan may implement policies related to the Enoch earth fissures immediately and allow for gradual implementation of policies that address the basin as a whole.

14. *Will there be an analysis done on tax revenue generated from municipal water rights and the effects of a groundwater management plan on tax revenue (property, income, and sales tax revenues)? [Cedar City]*

The Division is not planning to complete a rigorous economic analysis related to specific uses of water.

15. *Will there be an economic analysis done to determine the economic benefit of water in Cedar Valley – i.e., economic benefit of municipal vs. agricultural use? [Cedar City]*

No decisions have been made regarding an economic analysis. However, if an economic analysis is performed the purpose would not be to evaluate one water use against another, but to decide based on economics how quickly the plan should be adopted.

Irrigation vs. Municipal Use

16. *Will there be any consideration of the nature of use when determining the water rights needed to be cut back to meet the safe yield? If not, what recourse is there for municipalities to maintain a level of service necessary to meet public health requirements, supply fire protection, and maintain economic stability? [Cedar City]*

A water right's priority date is the only criteria the State Engineer is authorized to consider when regulating diversions under a groundwater management plan. We hope a gradual implementation of the management plan will allow the municipalities to make the necessary arrangements to meet their water needs. Additionally, water users can agree to a voluntary arrangement for managing withdrawals.

22. *What can be done to get a more accurate measure of diversion and depletion uses in the basin? [Cedar City]*

Yes, we are considering requiring some form of reporting for all water users who divert appreciable quantities.

Surface Rights

23. *Does the calculation of the safe yield for the aquifer include surface rights that are being used? What if more surface rights start to be used and begin to have an effect on the recharge of the aquifer? [Cedar City]*

The safe yield includes the amount of surface water that seeps into the aquifer along streams, canals, and fields irrigated with surface water. If the manner in which this surface water is used or conveyed changes and impacts the recharge to the aquifer, the safe yield will need to be updated.

The safe yield does not include the total amount of surface water available in the basin because we are not planning to manage surface and groundwater rights conjunctively.

24. *How many underground water rights in the basin are supplemental to surface water rights? What effect would stricter enforcement of existing rules on supplemental water rights have on the groundwater management plan? [Cedar City]*

About 5,000 acres have both surface and groundwater irrigation rights. A large portion of these rights were originally approved to be irrigated with surface water but subsequently approved to be supplemented with groundwater during years when surface flows were unavailable or constrained by prior rights. It is our understanding that many water users with supplemental groundwater have an incentive to divert groundwater regardless of whether surface water is available to them. This probably leads to inefficient use of surface water. More clarity of these supplemental water rights is needed before an analysis of stricter rules can be determined.

25. *Will the State Engineer look at making cuts in surface or spring water rights? [Cedar City]*

Surface and mountain spring water rights are currently regulated by the Coal Creek Commissioner under the direction of the State Engineer. It is anticipated that these surface and spring rights will continue to be regulated separately from the groundwater rights.

Import Water

26. *If additional outside water is introduced into Cedar Valley, how will this affect the Groundwater Management Plan? Will the safe yield be increased to account for the additional water coming into the valley? [Cedar City]*