

July 9, 2007

Dear Honorable Mayors of Utah County and elected officials,

We thank state water officials for their good work and encourage improvements towards greater water democracy.

Water is very simple: You can use all you have for your needs without wasting.

Equal water duties for equal soils and growing conditions, representation by population on appointed water boards, non-profit & equal water rates for “surplus” water sales sold under 10-8-14, water independence for all cities, public disclosure of water profits, and transparency of water utility operations are important improvements to Utah's water Industry.



Utahwater.net

“All of the hydrologic areas of the state are currently involved in a court ordered adjudication of water rights except the Weber River and Sevier River drainages.” (Web-page ADJUDICATION Revised: July 13, 2004 Utah Division of Water Rights)

In 1972, Judge D. Frank Wilkins amended Judge C.E. Henderson's 1944 ORDER: “ORDERED that . . . the State Engineer is directed to proceed with the preparation of a Proposed Determination of Water Rights which encompasses all of the rights to the use of all of the water, both surface and underground, within the drainage area of Utah Lake and Jordan River in Utah, Salt Lake, Davis, Summit, Wasatch, Sanpete and Juab Counties, Utah, as provided in Chapter 4, Title 73, Utah Code Annotated 1953, as provide.” Source: Utah Division of Water Rights

While not referred to as Area 57 at the time of the two court orders in 1944, and 1972 respectively, the Salt Lake City area fell within the jurisdiction of these orders. The court ordered work covering what is called today Area 57 has not been completed in 63 years from the first order and 35 years from the amended order while remote, obscure and less politically sensitive water rights have been completed.

Regardless of the rhetoric, it is difficult for the public to understand how the Division of Water Rights has found the time, money, and inclination to determine and adjudicate 25 cities/towns

and 7 unincorporated communities in Utah County, and 8 Cities and 3 unincorporated communities in Salt Lake County while leaving Salt Lake City's area un-evaluated after **63 years**.

Together Utah County (population 475,425) and Salt Lake County (population 996,374) comprise 56.3% of Utah's total population. In other words, 56.3% of Utah live in Utah County and Salt Lake County which overlay the Utah Lake/Jordan River water basin comprising Hydrologic Areas 51, 53, 54, 55, 57, and 59.

Within Utah County and Salt Lake County, the only un-evaluated water is in Area 57 which contain the densest, the oldest, the most critical water rights in Utah for the most numbers of Utahans.

It appears that by 1983, 90% of the Court Ordered work covering Utah County and Salt Lake County was completed to some degree. It appears that mysteriously, the work abruptly stopped during the Salt Lake City water rights evaluations. No explanation has been given. Is there any advantage for a city not to have a state water right audit?

It is equally difficult for the public to understand why applications to appropriate another 184,000 acre-feet of water from Area 57 have not been rejected, and how extension applications can be acted on with any degree of certainty in the un-evaluated Area 57.

The largest city in Utah escapes examination until the very last while the smallest cities are examined. One would think the largest city would be first. How different would the water politics be today if the Court Orders had been completed in a timely manner? Perhaps Payson City would not be the brunt of excessive litigation for water empire.

The issue is one of equality and fairness. Leaving Utah's largest city and largest water holder un-evaluated while evaluating Utah's smallest cities erodes the public trust in government. It looks unfair. No one is asking water officials to drop all their work, but to begin to finish the last 10% of the work covering Area 57 which is long over due and of greater impact on Utah from undue influence than any possible water that may be freed up.



Salt Lake City controls MWD Salt Lake & Sandy by having 5 of 7 board seats appointed by the Salt Lake City Council. MWD Salt Lake & Sandy owns 61,700 of 100,000 shares in Provo River Water Users. (A copy of the stock certificate is on the website). Employees of Salt Lake City water department sitting on the Provo River Water Users board authorized a lawsuit against Payson City (Civil No. 04040027).

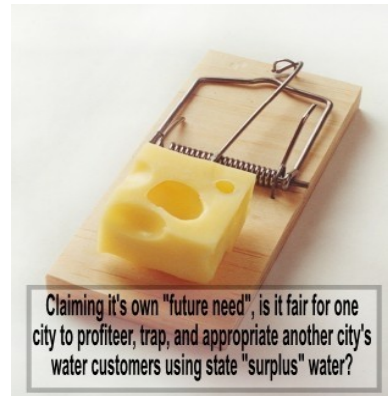
An employee of Salt Lake City on the East Jordan board authorized a lawsuit against Payson City which sought to use its 38.5 shares of East Jordan stock. (East Jordan v. Morgan and Payson City, Pacific Reporter, 860 P2d, 310 (Utah 1993).



Why should a Utah County city like Payson be sued twice for seeking

water independence? This has a chilling effect on other small cities. Excessive litigation costs break small city budgets. Why should a small city fear huge legal costs when it seeks to protect and provide water for its residents? Isn't every Utahn entitled to some Utah water?

Salt Lake City is currently grappling the CUP to control the 19 mile federal easement known as the Murdock Canal running through Utah County. Why does SLC which will represent just 4% of Utah in 2050 have such a great need for "control" so much of Utah's water and water conveyances?



*139,882 Utahns with 31,231 water connections outside Salt Lake City limits have been disenfranchised with no elected voice in SLC government or Public Service Commission who pay water rates 35% higher than the provider. *Take the 2005 SLC DWR reported figure of 317,981 – 2005 Governor's Office SLC pop. Figure of 178,099 = 139,882 disenfranchised Utahns, or $139,882 / 2,528,926 = 5.5\%$ of Utah.

“If you are providing water to anyone who does not have an ownership interest in the system, you are subject to commission jurisdiction,” Huntsman said. August 4, 2004 Deseret News.

“The PSC has no oversight over municipally owned water utilities or special service districts.”

Somehow, 139,882 have slipped thru the cracks. Either the legislative intent has been bent, or the law needs to be clarified to afford all Utahns equal protection.

In 2004, if the state PSC is concerned over double-charging allegations on 4 small water companies serving a total of 77 customers, then it would be concerned with the water rates on 139,882 folks outside SLC city limits receiving “surplus” Utah water.

If a city is operating a general water sales business outside city limits, wouldn't these operations be covered by the PSC? Would the city exemption end at the city limit? These are questions for elected officials.

Should one city compete for another cities’s water customers using state “surplus” water? When does “surplus” water revert to the state for another city to use? These are issues for discussion for elected officials.

Source: Salt Lake City Public Records Grama Request

In 2005, Salt Lake City sold 23,722.95 Acre-feet of water for \$15,875,896.00 with 31,231 outside Salt Lake City connections.

Source: July 6, 2007 Utah Division of Water Rights Data base under Main Page Water Rights sub-page Distribution/Flow Records sub-page Public Water Suppliers sub-page Water Use Data sub-page Salt Lake City Corp. Culinary Water

“2006 Population 319,186
2005 Population 317,981
2004 Population 316,780
2003 Population 315,263
2002 Population 314,221
2001 Population 313,198
2000 Population 312,192”

Source: July 6, 2007 Governor’s web page
Salt Lake City population
2006 Population 178,858
2005 Population 178,099
2004 Population 176,617
2003 Population 179,496
2002 Population 182,218
2001 Population 182,170
2000 Population 181,743 (Census Figure)



Can one city claim the population of another city to obtain water rights? These are issues for discussion by elected officials.

2005 Total Connections: “84,710” Total Annual Use Info (Acft) 71,297.41

Inside Salt Lake City Use: 47,574.46 AF Outside Salt Lake City Use: 23,722.95 AF

Source: Utah.gov sub-page Governor’s Office sub-page Demographic & Economic Analysis sub-page Utah State Division of estimates Salt Lake City’s 2050 population at 225,066 which is 25.8% increase over 2006.

Question: If Salt Lake City’s water use under conservation guidelines of a 25% reduction by 2050, then with a 25.8% increase in population, there would be no net increase in water use over 2005 figures. Salt Lake City has enough water in Deer Creek 61,700 acre-feet, Dell Reservoir 3,100 acre-feet, and CUP ULS water 20,000 acre-feet, and 8,600 Jordanelle water to exceed Salt Lake City water use needs.

With wall to wall cities in Salt Lake County, “surplus” sales will be phased out. If the “surplus” sales are continued thru 2050, the gross about of water customers inside and out would be about 400,000 requiring about 71,300 acre-feet factoring the 25% conservation goal.

Either way, Salt Lake City and its subsidiaries have enough water outside Salt Lake County beyond 2050 leaving all Salt Lake County water sources virtually unused.

In 2050, Salt Lake City total population by percent will be $225,066/5,368,567 = 4.2\%$

In 2006, Salt Lake City total population by percent is $178,858/2,615,129 = 6.8\%$

How does one of Utah's richest cities get \$500,000 in grant money from the Board of Water Resource while collecting over 3 Million from a paper water lease on Utah's "surplus" water to Jordanelle Special Service District? Profiteering from "surplus" water sales is a double charge upon public. If one city can make millions on Utah's "surplus" water, then every city is going to want the same privilege. If the water industry is fractious now, how much more fractious and unfair could it become? These are topics for discussion for elected officials.



Estimated 2050 Population of Salt Lake County: 1,663,994
Estimated 2050 Population of Utah County: 1,147,333

Where will the water come from for 1,339,528 new Utahs if unfair water duties are not adjusted, or 25% conservation targets are not met?

2006 Population of Salt Lake County: 996,374

16 Cities

5 unincorporated communities: Kerns, Magna, Copperton, Millcreek, Emigration

Source: Salt Lake County Government

2006 Population of Utah County: 475,425

25 Cities/Towns

7 unincorporated communities

Source: Utah County Government

The time to improve Utah's water industry is today. Unfair water duties and policies must become a part of Utah's history. Replacing water monopoly with water democracy is fun. Let's do it today.

Utah Lake and Utah County wells are directly connected. An artificial demand on Utah Lake with an unfair water duty is an artificial and unfair demand on Utah County wells.

A Utah County farmer works just as hard as a Salt Lake County farmer with the same crop and soil. Why should the Salt Lake County farmer get 25% more water? It is difficult for the Utah County farmer to understand how a state policy is unequally applied. Why state water officials apply hydrological science to him and not his neighbor.

Equal soils and growing conditions mean equal water allowances and duties. It appears that USU's Dr. Hill's studies are used for water transfers in Utah County, Tooele County, and Davis County, but not in Salt Lake County. If there are water claims in Salt Lake County for 125,000 irrigated acres, 25% increase over the Utah County duty would be 1 extra acre-foot per acre on 125,000 acres or 125,000 acre-feet of artificial demand in the Utah Lake and Jordan River Drainage Basin which is going to support 2.3 million people in 2050 according to the Governor's Office.

Early on the water duty in Salt Lake County was set at 3 by a member of the judicial branch, a

judge. A state water administrator Harold Donaldson re-set it at 5. The Legislature set it at under 73-1-3: "Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state." If a Utah County farmer can only beneficially use 4 acre-feet of water per acre for alfalfa production with X soil condition, then it follows that a Salt Lake County farmer can only beneficially use 4 acre-feet of water per acre of alfalfa production with X soil condition.

The question becomes: Upon what authority can a state water administrator grant more water to one farmer than another with identical water requirements for crop production?

Is there any extra powers derived from the Courts? Is there any extra authorization in the Utah Code? Is there any hydrological science to over ride Utah's beneficial use doctrine?

While there may have been "surplus" water to allow such an irregular water duty, that is no longer the case.

Let's reset it to 4 so the playing field is equal for all Utah water users, or reset everyone to 5. Equality is required. All water users must be treated equally by the state. We can't have a special state speed limit in one county allowing a 25% higher speed limit. The time to stop water speeding is today.

We invite you to visit our website Utahwater.net. There may be some errors which are not intentional. If you find an error, please let know so we can correct it. The water industry despite GRAMA is not as transparent as it should be. Access to records is blocked. If you have any questions or comments, please feel free to contact me jgarside@sfcn.org Tel. 801-471-6469.

Please have your city engineers evaluate the data, the hydrology and draw to their own conclusions. Ask your licensed engineers if the 4-5 duty is fair? Ask your city managers about the impact of one city owning service lines in their city. Ask your residents if they'd appreciate a transparent water utility, or equal access to state water money.

I hope this information is useful in providing understanding and dialog on Utah water issues. Salt Lake City is one of Utah's great cities with many forward thinking and good policies. The SLC water policy in my opinion would benefit from moderation.

Jim Garside

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