

**Mayor**

Russell L. Cowan

**Roosevelt City Corporation**255 South State Street  
Roosevelt, Utah 84066  
(435) 722-5001 722-5000 Fax**Councilmembers**Guy Coleman  
Robert L. Yack  
Dave Woolstenhulme  
Vaun D. Ryan  
Lane Yack**City Manager**

D. Brad Hancock

October 17, 2007

Mayor Joe Thomas  
Spanish Fork City  
Box 358  
Spanish Fork, UT 84660

Dear Mayor Thomas:

You may already have heard about a decision regarding a "change in point of diversion" for certificated water rights from the municipality of Roosevelt, located in eastern Utah, by the State Water Engineer, Mr. Jerry Olds. If you have not heard about this case you probably will, as it has caused consternation for drinking water providers throughout this state. A brief summary of the case is as follows:

Roosevelt City, a small community in northeastern Utah, provides culinary water to its citizens of about 5,000 and the surrounding area, including the communities of Neola, Hancock Cove, Crescent and parts of Ballard Town. The total number of water connections serviced by the City is approximately 2,500. Roosevelt receives its water from shallow (200') underground wells about ten miles north and east of the City at the base of the Uintah Mountains. Roosevelt City sits in the heart of the energy rich Uintah Basin and is experiencing unprecedented growth due to the oil and gas industries.

The growth that Roosevelt is experiencing has caused an extreme demand on services and especially that of culinary water. Therefore, the City attempted to increase its production capability by adding additional wells to its water system source by using existing certificated rights. For the point of discussion, the numbers will be rounded and you should get a picture of what has happened.

Of the 7,800 acre feet of certificated water rights the City has held, approximately 3,000 have been used in previous years to supply the necessary water for the area. In 2003, in an effort to increase its production, the City applied to the State Water Engineer to use a portion of the 7,800 acre feet water right to produce additional water. The 7,800 acre feet had been acquired in years past by spending hard earned tax payer dollars for the purpose of banking the water shares for the time they would be needed. The practice of acquiring water for future needs by water providers is common practice and considered good planning. At least this is what Roosevelt City thought.

Remember that of the 7,800 acre feet only 3,000 had been used previously. Due to the growth and continued long term water drought in the area, the City needed more water to meet the demands of the public it serviced. The City's application to the State Engineer requested that about 3 cfs be allowed

to be diverted from an existing well site about two miles down stream from the original point of diversion. This would have allowed the City to provide water to many needy households, many of which are receiving their water from inadequate and even contaminated wells.

The application was submitted in 2003. It was not until early in 2007 that the State Engineer rendered his decision. His decision stated that because the full 7,800 acre feet of water right had not been fully used in preceding years and that because the application was for a change in the point of diversion, it was concluded that the existing well field could not sustain the amount of water right so that to grant the request would be an expansion of the right and that the water rights not used in past years are apparently lost because of non use. At no time did the State Engineer use the word forfeit. However, his decision made it obvious that he intends to cause this water to be forfeited. The loss of 5,000 acre feet of certificated water, paid for at the public's expense, is a critical blow to the City who has voluntarily taken upon itself the responsibility to supply water to many needy families even outside its corporate boundaries.

If you are a water provider you need to be aware that the ramifications of this decision have far reaching impacts. These impacts can and will undercut and hamper your ability to provide this service.

Roosevelt City is asking for support to fight this decision in court. The consequences are too extreme to do otherwise. Some reasons why local governments including counties and water districts should support the City's change application case against the State Engineer are as follows:

- The case is a test case for the State Engineer regarding his authority to evaluate non use of municipal water rights in a change application proceeding. The State Engineer does not and should not have the authority to make findings of non use of water rights in evaluating change applications.
- Such findings of non use place a cloud on a local government's and district's water rights and harm their ability to finance and develop water projects.
- What the State Engineer did to Roosevelt, he could do to you. The State Engineer will use the same evaluation he used in the Roosevelt change application for other similar municipal change applications. All cities and other water providers should not have to put at risk all their water rights when they need to file a change application to add a new well or other water source under their water rights.
- The municipal and other water rights being held for the future reasonable requirements of the public should be protected.
- Municipal and other water rights not being used because of drought, water shortages, and conservation measures should be protected from forfeiture. The State Engineer did not take into account those factors when he evaluated Roosevelt's change application.
- The State Engineer does not and should not have the authority to establish the safe yield of a groundwater aquifer in a change application proceeding.
- Court appeals of State Engineer decisions should be adjudicated in state court and not federal court. Roosevelt's case got sucked into federal court because an Indian Tribe was a party of interest. This maneuver needs to be settled so that state water cases stay in state courts. All water users in Utah should have the right to appeal a State Engineer's decision in court, and should not be subject to having the case dismissed by the federal government.
- The public dollars used to acquire water rights should be protected rather than jeopardized by the State Engineer. Substantial investments of public funds should not be placed at risk or lost due to one man's decision.

These are a few of the reasons why you should be interested and become involved in the case at hand. Please express your concerns to your elected officials as legislation will be introduced in the next session to clarify the

law and place protections on those who have the responsibility to provide for culinary water now and in the future. The unfortunate fact of this issue is that it now must be fought in the legal arena. **What the State Engineer did to Roosevelt must be dealt with quickly and decisively.** Therefore, on behalf of the many water providers of this state, we ask that you help financially with this battle. The cost is simply too much for one small community to bear. However, a little help from many of us will make a huge difference in the outcome and we will all benefit from it.

We are asking that you contribute to this fight based upon the table below. Please make checks payable to: **Roosevelt City Water Right Preservation Fund.** And remember to talk to your state senators and representatives about this issue!

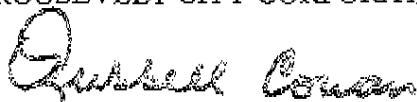
<b>Number of Water Connections</b>	<b>Donation Request</b>
1 to 500	\$ 200.00
500 to 1000	400.00
1000 to 2000	750.00
2000 to 4000	1,500.00
4000 to 10,000	3,500.00
Over 10,000	5,000.00

County Commissioners should be aware of and willing to help in this litigation. We would appreciate any donation you feel appropriate for this cause.

**Strict accounting will be kept of all donations and where they are applied. You will receive a report from time to time as to the progress. Thank you for your help and I wish you the very best in the coming years.**

Sincerely,

ROOSEVELT CITY CORPORATION



Russell L. Cowan  
Mayor  
RLC:cw