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## Company leasing SITLA land for produced water disposal site is exempt from county regulations

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by Craig Bigler  
*contributing writer*

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A private company has leased property from the state School and Institutional Trust Lands Administration to develop a produced water disposal site on SITLA lands located in Grand County. SITLA officials said this week that because state law exempts SITLA from being required to follow local land use regulations, the company will not be subject to any regulations and fees imposed by Grand County on produced water facilities.

A lease to inject produced water into the ground was granted by SITLA to Park City-based Summit Operating, LLC “about a month ago,” according to John Andrews, chief legal counsel for SITLA.

The lease is on the section of land directly northeast of the private property where Westwater Farms has applied for state permits to inject produced water beneath the ground.

This action was taken by SITLA even while efforts are underway by the Grand County Council to prepare a new ordinance to replace and expand an existing ordinance governing disposal of produced water by evaporation.

The new ordinance is intended to cover “commercial” disposal by any means. A public hearing on the new ordinance is scheduled for Feb. 10. The draft version is available on the Grand County website on the planning and engineering page.

Andrews said the lease was granted because state law gives exclusive jurisdiction over the siting and permitting of such injection wells to the Division of Oil, Gas and Mining. In addition, state law exempts SITLA from county zoning ordinances, he said.

Regarding monitoring fees that the new ordinance would place on all disposal of produced water, Andrews said, “We probably would get crosswise with the county on that,” because, he said, payment of fees would diminish SITLA revenues dedicated to the Utah schools system.

County officials do not dispute that DOGM has exclusive jurisdiction over injection wells. The new county ordinance spells that out as it attempts to limit the total number of such facilities by limiting the maximum possible emissions of hazardous air pollutants.

The new ordinance applies only to surface use of the land. It would require site plans, transportation plans, safety measures, monitoring of emissions, and assurances that all DOGM requirements have been met, as conditions for the approval of conditional use permits for surface use by the county.

But, such conditions only apply to facilities on private property, said Todd Jenson, a deputy Grand County attorney. "SITLA is a state entity and they have exclusive jurisdiction over their land," Jenson said.

Attempts by SITLA to voluntarily abide by county land use ordinances left a "sour taste in their mouth" after agreements to follow county regulations for the Cloudrock development led to citizen lawsuits that have cost the agency a great deal of time and money, Jenson said.

"SITLA is hesitant to subject itself to that kind of situation again," Jenson said, adding that there are cheaper ways than litigation for citizens to express their opinions.

County officials have been working with SITLA, DOGM, and other agencies seeking their cooperation for the treatment of produced water in Grand County, Jenson said, adding that the county's attempts to reach such agreements are motivated by concerns about environmental hazards.

Lease of the land is not itself sufficient for Summit Operating to start drilling injection wells. It must first get permission from DOGM to drill a test well to provide the data and information necessary to satisfy requirements for an injection well permit, said Clint Dworshak, DOGM spokesman.

"Our board has exclusive jurisdiction," over injection wells, Dworshak said, but he is not so sure about surface use such as access roads that counties usually do have jurisdiction over, at least on private land.

"We're not sure if this one's going to qualify [for an injection well permit] or not," Dworshak said. Referring to letters exchanged between Grand County Engineer and the attorney for Summit Operating, Chris McAnany, he said that McAnany has assured the county that his client will follow the "best environmental practices."

"SITLA property is not subject to local land use requirements.... We have told the county that Summit Operating will comply with DOGM and SITLA lease requirements," McAnany said.

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