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## **Sent via US First Class Mail & Email**

Utah Health, Epidemiology and Laboratory  
Services, Environmental Services  
c/o Ronald Marsden  
Cannon Health BLDG  
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Salt Lake City, Utah 84113231

[rmarsden@utah.gov]

RE: *Written Comment regarding Proposed Rule on Public Geothermal Pools and  
Bathing Places - R392-303*

Dear Health Department:

Pursuant to the Notice of Proposed Rules for R392-303, Public Geothermal Pools and Bathing Places, as contained in the Utah State Bulletin, Vol. 2008, No. 18, this office hereby submits a written comment and request for reconsideration on behalf of our client, Saratoga Springs Owners Association, Inc. ("Association"). The purpose of this comment is to request reconsideration of the allowed arsenic level as contained in Table 1 of R392-303-5. It is our belief and contention that the allowed level of arsenic as provided in Table 1 is excessively stringent and unreasonable, therefore, for the following reasons, we request that the approved level of arsenic allowed in geothermal pools be raised to 0.050 milligrams per liter.

Obviously, our client is concerned with the health and safety of the bathers that will utilize the geothermal pools within the Association. The Association recognizes that studies conducted by the U.S. Environmental Protection Agency have linked long-term exposure to arsenic to various forms of cancer and other non-cancer effects, such as cardiovascular, pulmonary, and endocrine, among other possible side effects. *However, these studies involved arsenic levels in drinking water, not with arsenic levels in geothermic pools used only for bathing and not for internal consumption.*

In 2001, based on its studies, the U.S. Environmental Protection Agency reduced the allowed level of arsenic found in *drinking water* from 50 parts per billion or 0.050 mg/L to 10

parts per billion or 0.010 mg/L pursuant to 42 U.S.C. § 300g-1. This reduction to the new arsenic standard was done to protect consumers against the effects of long-term, chronic exposure to arsenic in drinking water and set the level that was believed to maximize health risk reduction benefits at a cost that is justified by the benefits. In so doing, however, the U.S. Environmental Protection Agency recognized that short-term exposure to high doses of arsenic in drinking water can also cause adverse health effects, but that such effects are unlikely to occur from drinking water supplies that were in compliance with the previous arsenic standard of 0.050 mg/L.

As now drafted, the proposed R392-303 requires that geothermal pools and bathing places meet the same standard as drinking water under U.S. Environmental Protection Agency regulation. This seems extreme at best since bathers would not be ingesting the water, but merely swimming or bathing in the geothermal pools. Furthermore, even if some bathers did ingest a small amount of the water, the U.S. Environmental protection agency studies have shown that short-term exposure to arsenic levels in water, more specifically drinking water, would likely not result in adverse health effects. Therefore, it would only make sense to have differing standards for drinking water and pool or bathing water, rather than just one overarching standard for both.

We advance the idea that drinking water should have a lower source water constituents, like arsenic, than pool or bathing water. The majority of health effects that occur from exposure to arsenic in water results from long-term, chronic ingestion of the constituent, not merely from swimming or bathing in such water. Therefore, holding the operators or owners of geothermal pools and/or bathing places to the same standard used by the U.S. Environmental Protection Agency for drinking water will not achieve a greater result in stemming adverse health effects from arsenic in water, but will only serve as a means to increase costs and potentially close geothermal pools and bathing places that have not caused any such adverse health effects.

Case in point, the geothermal pools located at Saratoga Springs have been in use for over one-hundred years. The pools and hot tubs located within the Saratoga Springs Owners Association, Inc., contain an average of 0.035 mg/L of arsenic, slightly above the standard of proposed R392-303. To date, and to the best of the knowledge of the board of directors over Saratoga Springs, there have been no recorded instances of any adverse health effects on those that have utilized the pool and hot tubs that contain the natural mineral waters. However, if this regulation goes into effect with the arsenic standard remaining at 0.010 mg/L, the Association will be forced to either expend a significant amount of owner assessments in an attempt to bring the pools into compliance with the standard or close the pools and lose a valuable asset and amenity within the Association without any real benefit to the public, which is the apparent purpose of the proposed rule.

In fact, the summary of the rule or change, as contained in the Utah State Bulletin, distinguishes between geothermal pools and drinking water. The Utah State Bulletin states in relevant part that the “rule allows public geothermal pools to use natural geothermal water source rather than water from a public drinking water supply.” If the rule allows the use of geothermal water, rather than requiring drinking water, then it makes no sense to hold the geothermal water

used to the same standard of drinking water as promulgated by the U.S. Environmental Protection Agency.

Therefore, we suggest that the proposed rule allow a higher threshold for arsenic levels in water that is only used in geothermal pools and bathing places, than for water used for drinking. The previous drinking water standard of 0.050 mg/L, as established by the U.S. Environmental Protection Agency, would sufficiently protect the public from any adverse health effects for water not intended for drinking, while the 0.010 mg/L would be an appropriate standard for arsenic levels in drinking water. By so doing, the Health Department will provide the maximum amount of protection to the public, with the least degree of cost and burden on geothermal pool owners.

Accordingly, we request that the Health Department reconsider the standard for arsenic levels found in water utilized only for geothermal pools and bathing places, while focusing on the cost versus the benefit of the standard set. Thank you for your consideration of this matter, if you have any questions or concerns, please do not hesitate to contact this office.

Sincerely,

**RICHARDS, KIMBLE & WINN, PC**

Matthew J. Winn

Cc: Client