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Sent via US First Class Mail & Email

Saratoga Springs Owners Association
c/o Board of Directors
625 Saratoga Drive
Saratoga Springs, Utah 84043

[Howard@onlinecommunitysolutions.com; Becki@onlinecommunitysolutions.com]

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

Dear Board:

The purpose of this letter is to provide a brief update on the status of Proposed Rule R392-303 on Public Geothermal Pools ("Proposed Rule"). I recently spoke with Ronald Marsden with the Utah Health, Epidemiology and Laboratory Services, Environmental Services regarding the comment submitted by this office. His comments are encouraging and should be of interest to the Association.

Mr. Marsden recognized that there is a difference between drinking water and bathing water; however, the drafters of the rule are constrained by the standards approved by the federal Environmental Protection Agency ("U.S. EPA"). As explained by Mr. Marsden, the only standards that have been established by the U.S. EPA are the standards for drinking water as reflected in the Proposed Rule. Furthermore, traditional style swimming pools are obligated to meet the drinking water standards for drinking water. Therefore, the Utah Department of Health ("Health Dept.") did not have another standard they could implement regarding geothermal pools and therefore felt constrained to use the same standards proposed by the U.S. EPA.

However, Mr. Marsden stated that based on the concerns addressed in our written comment, among other comments received, that the true intent and purpose of the Proposed Rule in being misconstrued. After a lengthy discussion regarding the ambiguities and confusion regarding the actual text of the Proposed Rule, Mr. Marsden stated that the Proposed Rule would

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not be implemented as drafted and that they are going to meet again as a committee to have the Proposed Rule reflect the purpose and intent of the rule.

As was stated by Mr. Marsden, the intent of the Proposed Rule was to provide operators of geothermal pools options to allow continued use of such pools, even if the water quality falls short of the established standards. The purpose was to allow geothermal pool operators that do not meet the required standards, and could not or do not want to bring their water quality into compliance, a third option to continue operations.

This third option would consist of the operator having the water analyzed by a toxicologist and receiving a recommendation from such toxicologist as to how much exposure a bather should be permitted given the level of constituents in the water. Once the toxicologist provides such a recommendation, the operator would then post a sign stating that the geothermal pool does not meet the drinking water standards for constituents in the water and provide the recommended allotment of time as provided. This would then allow the operator to continue to operate the geothermal pool by providing notice to potential bathers.

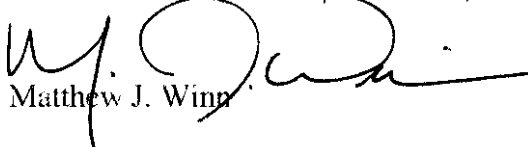
As stated above, the purpose of the committee meeting is to revise the Proposed Rule to reflect the above intent. In addition to altering the Proposed Rule to reflect the above intent, the committee will also consider how to limit the discretion of the "Local Health Officer" in regard to the approval and implementation of the toxicologist's recommendations so as to avoid arbitrary and capricious application of the rule. This would also provide more guidance to the operator as to the requirements for continued operation of a non-compliant geothermal pool.

Once the committee has met and considered revisions to the Proposed Rule, the revised language of the new rule will again be published in the Utah State Bulletin for review and public comment. Furthermore, Mr. Marsden intends to send the revised rule to this office for our review of the language prior to publishing it in the Utah State Bulletin, therefore we can provide further input regarding the rule before publishing.

Overall, it appears that the Utah Health Dept. intends to protect the operation of geothermal pools, while simultaneously attempting to protect the health and safety of the bathers. To accomplish this, Mr. Marsden desires to cooperate with those impacted by the rule to produce a workable solution to the benefit of both operators and patrons of public geothermal rules. Therefore, the Utah Health Dept. is eager for our participation in the redrafting of the rule. Accordingly, we will provide additional information as it is received by this office regarding any future rules governing the use and operation of geothermal pools. If the Association has any questions or concerns, please do not hesitate to contact this office.

Sincerely,

RICHARDS, KIMBLE & WINN, PC


Matthew J. Winn