

**SOUTHWEST JORDAN VALLEY GROUND WATER CLEANUP PROJECT
STATE OF UTAH NATURAL RESOURCE DAMAGE TRUSTEE**

**COMMENT RESPONSE SUMMARY
AUGUST 31, 2004**

Response to Common Comment No. 10 – Well Owner Concerns

A number of comments expressed concerns that the project outlined by the Joint Proposal will interfere with well owners' rights in the Affected Area by drawing down the aquifer or by adversely affecting quality, and that well owners are not protected. The project is designed to cleanup contamination in the deep aquifer and keep contamination from spreading to other parts of the aquifer. The project utilizes water rights of Kennecott and Jordan Valley Water Conservancy District. Neither the Consent Decree nor the Joint Proposal settles claims of third parties for interference with water rights. However, in order to address well owner concerns in a timely manner, Kennecott and JWCD have provided procedures to streamline resolution of any claims.

Consent Decree

The groundwater contamination located under the southwest Jordan Valley caused injury to a natural resource (groundwater) that otherwise would have been available to the public. The Consent Decree was entered into in settlement of the Trustee's claim for the damages associated with the groundwater contamination, and requires that monies for the damages be placed in a Trust Fund be used to "restore, replace, or acquire the equivalent" of the lost resource for the benefit of the public in the Affected Area. As stated in Section VIII.C of the Consent Decree, the Consent Decree does not settle claims by third parties, who are not parties to the Consent Decree, with regards to alleged quantity or quality impacts. Furthermore, the Trustee does not have the authority to resolve third party claims.

Joint Proposal

The available data, which has been reviewed by the Trustee, indicates that implementation of the Joint Proposal is not likely to adversely impact the water quantity or quality of private well owners. Prior to the initiation of the remediation project by Kennecott in the early 1990's, Kennecott began a groundwater monitoring program to measure the water level elevations of the aquifer in the southwest Jordan Valley. Additional information on the aquifer studies and on groundwater modeling is provided in Response to Common Comment No. 2 above. Future monitoring data will be compared to the baseline representation to evaluate the effectiveness of the remediation and its impacts on water levels and groundwater quality in the valley. This information is reported on an annual basis to the Technical Review Committee (TRC), including the EPA and DEQ, and is available to the public. Such information will continue to be used to evaluate potential quantity or quality impacts, including reduction in contaminants and prevention of migration of the plumes.

Data collected through this monitoring program, as well as other data, have shown that the aquifer has historically been over extracted and continues to drop as a function of current extractions unrelated to Kennecott's remediation program. Based on the data, it has been determined that drawdown of the aquifer in the immediate area of the Zone A plume is

unavoidable and necessary to contain the contamination. In the absence of this extraction, the acid contaminated water could spread to contaminate other areas of the aquifer. This concern is recognized in the Salt Lake Valley Groundwater Management Plan. As described in Response to Common Comment No. 5 above, management of the acid-contaminated water associated with the Zone A Plume is part of the CERCLA remedial response as described in the CERCLA Record of Decision dated December 13, 2000; it is not being independently evaluated by the Trustee as part of the Joint Proposal.

The project outlined by the Joint Proposal pursuant to the Natural Resource Damage Consent Decree, is not expected to cause unreasonable interference with existing water rights. As described in the Joint Proposal, the project uses existing water rights of Kennecott and JWCD. The project also is not expected to adversely affect the quality of the groundwater withdrawn by others with groundwater rights in the Affected Area. The project not only provides a restoration of the lost natural resource to the public in the form of a treated public water supply, but it also accelerates a cleanup and remediation of the groundwater, while preventing further migration.

Procedures to Address Well Owner Concerns

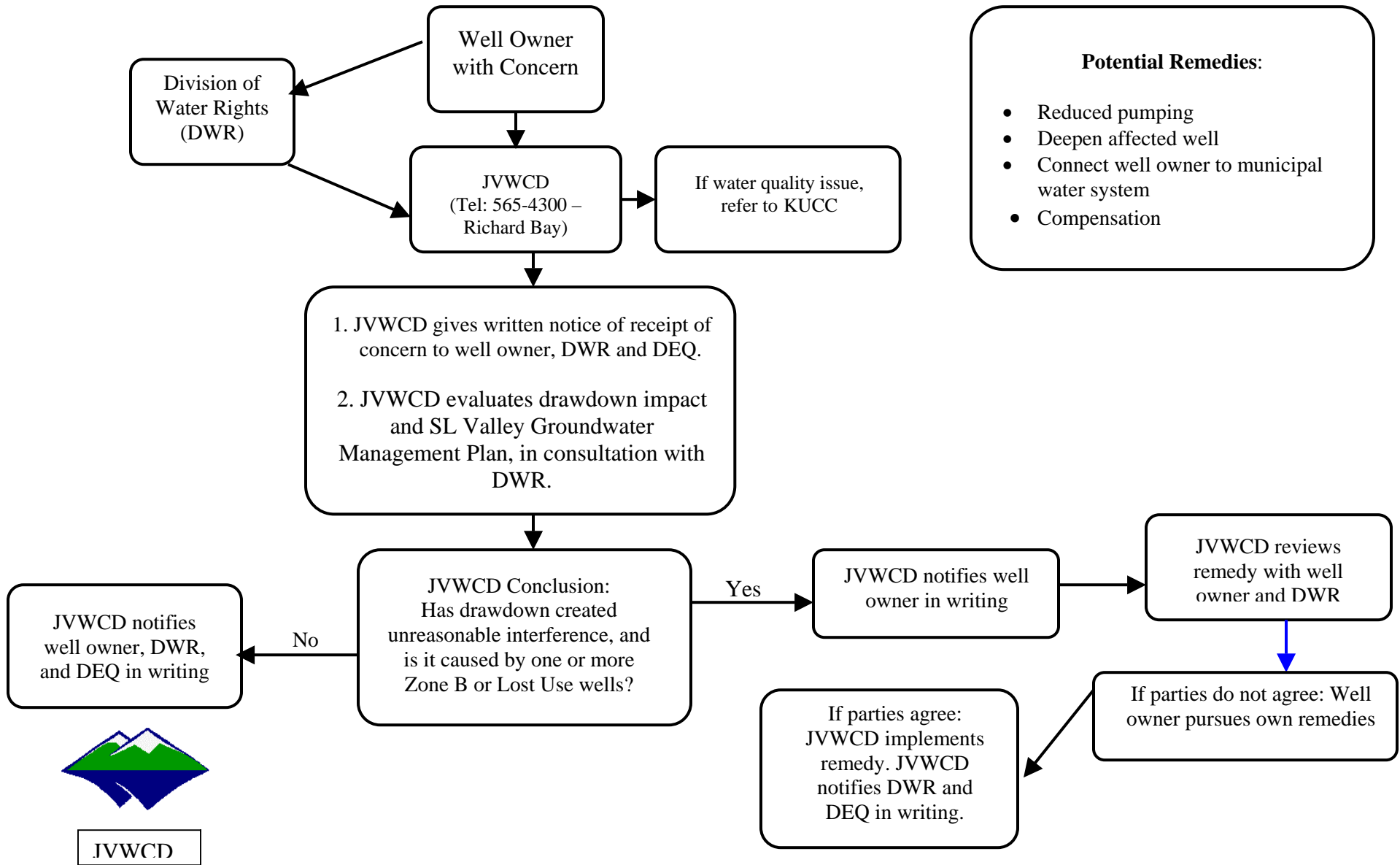
The project outlined by the Joint Proposal is not intended to nor does it resolve concerns well owners in regards to alleged quantity or quality impacts. Utah water law and the Salt Lake Valley Ground Water Management Plan will govern issues of unreasonable interference. In addition, both Kennecott and JWCD have procedures in place to assess the validity of quality or quantity concerns. Each procedure is intended to provide an inexpensive and timely avenue for water rights owners to have their concerns addressed. If an affected water rights owner chooses not to participate in this process, or if the owner disagrees with the determination in this informal process, there is no prohibition on pursuing other available legal avenues to address the claim or concern. In addressing impacts, Kennecott or JWCD will include an evaluation involving the water rights holder and consultation with the Division of Water Quality and/or the Division of Water Rights, depending upon the type of impact.

Information has been prepared and presented to well owners to assist with an understanding of these procedures. Kennecott will address suspected water quantity impacts from the project activities for Zone A that specifically relate to Kennecott. The District will address suspected water quantity impacts due to the project activities for Zone B. Kennecott has also indicated in all of the public meetings that it will address suspected impacts to individual well owners based on water quality issues in Zone A and B that specifically related to Kennecott. Mitigation or reconciliation for determined impacts may include replacement water, deepening of the well, under-sink reverse osmosis treatment units, or other appropriate means to be determined on a case-by-case basis.

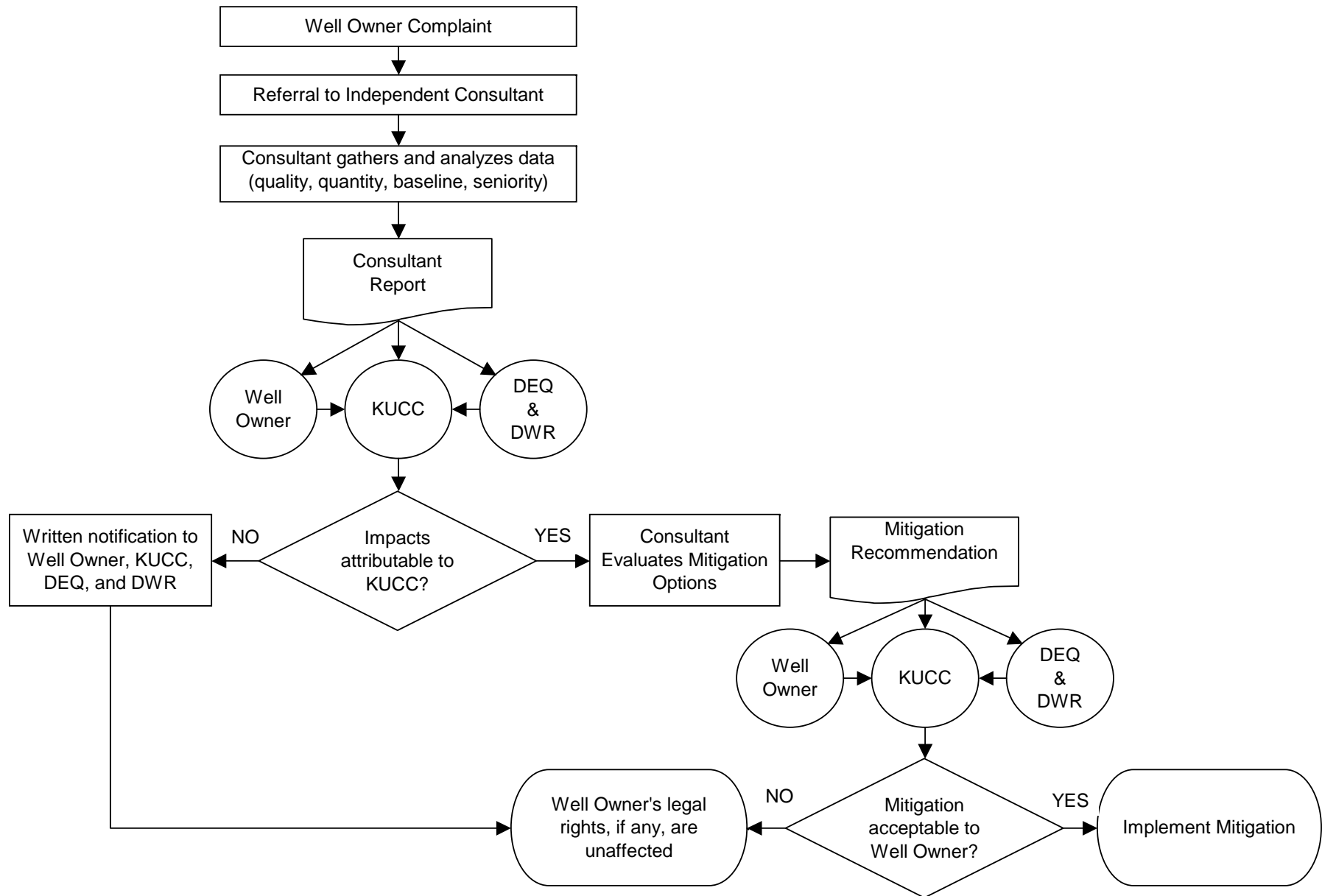
Included at the end of this response are two figures, entitled *Zone B/Lost Use Groundwater Interference Mitigation Plan (for wells east of 4000 West)* and *Zone A Water Quantity/Quality and Zone B Water Quality Well Owner Concern Evaluation Process*. These figures portray the procedures referenced in this response. The procedures are voluntary, are not required by the Consent Decree, and are not a part of the project's implementing agreements or Joint Proposal. The existence of these procedures does not affect the rights of the well owners or the rights of Kennecott or JWCD. The procedures are designed to provide a voluntary avenue to resolve potential well owner claims.

ZONE B/LOST USE
GROUNDWATER INTERFERENCE MITIGATION PLAN

(For wells east of 4000 West)



ZONE A WATER QUANTITY/QUALITY AND ZONE B WATER QUALITY WELL OWNER CONCERN EVALUATION PROCESS



The process illustrated above is not a part of the Joint Proposal. It reflects a voluntary process designed to address concerns of private well owners regarding potential interference with pre-existing water rights utilizing criteria consistent with Utah law. Nothing in the process is intended to create, modify, expand, limit or restrict the legal rights or remedies of either the well owner or Kennecott.