

From: [Brent Poll](#)
To: [Public Comment](#)
Cc: "[Lynn & Kathy](#)"; glenpoll41@gmail.com; [Brandon Poll](#); [Justin @home](#); [taxappeals TAX](#); [Rod Westbroek](#); [Hayley Alberts](#); [Blair Halverson](#); [Angie Petty](#); [Joel Dills](#); [FISHER, BARBARA F GS-12 USAF AFMC 75 ABW/PA](#); [TAMASHIRO, PEIFEN T GS-13 USAF AFMC AFCEC/CZOM](#)
Subject: Pollution in the western Portion of the South Weber Valley
Date: Tuesday, February 14, 2023 3:47:19 PM

Please include this in the minutes for the 14 February 2023 City Council Meeting.

This City has created a flood of new polluted subdivisions throughout much of the western portion of our valley. Council and Planning Commission minutes largely attribute this to the mistaken conclusion that the simple 'passage of time' had somehow miraculously removed the threats posed by pollution well-documented in Superfund records for polluting most of the western portion of our valley. This Superfund documentation detailed threats so severe as to require the added designation of being also placed on the National Priority List (NPL) as one of the most "imminently hazardous to human health" in the entire Country. Moreover, the Utah Department of Environmental Quality (UDEQ), Hill Air Force Base (HAFB), and the Environmental Protection Agency (EPA) had further certified in their 2015 Statement of Significant Differences that those same hazardous conditions were projected to remain "until some uncertain time" then predicated to 'be in the 2040s.'

All searches for some justification, beyond the City's simple claim that the passage-of-time alone had already removed those serious Superfund/NPL risks, were non-productive. The reverse was true. The 'uncertain' 2040s timeframe projected by UDEQ/HAFB/EPA was even too optimistic as some of the contaminants at issue (such as arsenic) are expected to remain forever just as toxic unless/until they are collected/removed and then destroyed as required in the 1998 Record of Decision for Operable Unit One (OU1).

The above dissatisfaction and criticism about the City's failure to ever genuinely embrace the seriousness of this issue, and thus really promote the health and welfare of our present and future City residents;' has attracted two new players into this scenario. The County and State taxing authorities, have for now, embraced the notion that (for real-property taxing purposes), at least in the western portion of our valley, there really is no viable difference between genuinely polluted property and non-polluted property. Those taxing entities, we contend respectfully, are incorrect.

They contend that since the City is building new subdivisions there and the lots and homes therein are apparently selling at competitive rates with those in known non-polluted areas, then there is actually no real value difference between polluted and non-polluted property in South Weber. This, according to the County/State equates with 'reasonable knowledge' which is a bed-rock foundation for determining fair market values. However, there are Federal statutes and a binding/enforceable Federal Facility Agreement (FFA) pertaining to polluted

property in general and property polluted by HAFB in particular which require a distinctly different approach to fair market value. This starts with the statutory premise that every owner of a property/facility where a 'hazardous substance has come to be located' is defined as a Potential Responsible Party (PRP) with all the duties and responsibilities that this entails. This level of PRP responsibility will continue for current and prior (post-contamination) owners until such time that "no further corrective action" is appropriate.

The above FFA/CERCLA standard of 'no further corrective action being necessary' (as agreed by UDEQ/HAFB/EPA as thus so accomplished through the formal delisting process) is the statutorily defensible standard for what constitutes 'reasonable knowledge' for when a polluted property can again be restored for full-productive uses (including safe-from-pollution subdivisions).

If we cannot informally settle our current dispute with the local taxing authorities, this matter very likely will be settled in State and/or Federal Court. Please let me know if you have questions or comments.

Sincerely,
Brent Poll
Executive Director
South Weber Coalition &
Managing Member of
Poll Enterprises LLC