

(Draft - Awaiting Formal Approval)

**MINUTES OF THE
STATE WATER DEVELOPMENT COMMISSION**

Tuesday November 30, 2010 - 3:30 p.m. - Arches & Canyon Room, Provo Marriott Hotel

Members Present:

Rep. Patrick L. Painter, House Chair
Sen. Dennis E. Stowell, Senate Chair
Sen. Gene Davis
Sen. David P. Hinkins
Rep. Kerry W. Gibson
Rep. Michael E. Noel
Commissioner Leonard Blackham
Mr. Tage Flint
Mr. Mike Mower
Mr. Warren Peterson
Mr. Michael Styler
Mr. Ron Thompson

Members Absent:

Sen. Scott K. Jenkins
Rep. Susan Duckworth
Rep. Ben C. Ferry
Rep. James R. Gowans
Mr. Larry Anhder
Mr. Don Christiansen
Mr. Chris Fullmer
Mr. Brad Hancock
Mr. Dallin Jensen
Mr. Darrell Mensel
Ms. Amanda Smith
Mr. David Ure

Staff Present:

Mr. J Brian Allred, Policy Analyst
Mr. Christopher R. Parker, Associate General Counsel
Ms. Kimberly A. Heiner, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Commission Business

Chair Painter called the meeting to order at 3:45 p.m. Rep. Ferry, Rep. Gowans, Mr. Mensel, Mr. Jensen, and Mr. Ure were excused from the meeting.

A quorum was not present to approve minutes of the December 14, 2009 meeting.

2. Native American Water Rights Negotiations

Mr. Mike Styler, Executive Director, Department of Natural Resources, discussed negotiations with the Navajo Nation to quantify their water rights. Mr. Styler stated that the Navajo Nation is not as concerned about the amount of water, but rather the cost of delivering the water to the people. They agreed to ask for half of the water they are entitled to, in exchange for money to deliver the water to their people.

3. Unappropriated Waters in Utah

Mr. Kent Jones, State Engineer, distributed a map showing where water is available to new appropriations. He said that some waters are available in open areas, but are approaching safe yield levels. He stated studies show that as water is drawn from the ground, it will pull from some surface water sources.

Sen. Stowell asked if Mr. Jones thought it was feasible to move water rights from one basin into another. Mr. Jones said he saw a few difficulties associated with this, but also saw possibilities. Mr. Jones pointed out that water rights were over allocated but underused.

4. Definition of Economic Benefit

Sen. Stowell discussed "Administrative Rule R655, Natural Resources, Water Rights," which was included in the mailing packet. He expressed concern over the amount of fines for people who use more than their allocated water. He also questioned the language of the rule using "gross" economic benefit vs. "net" economic benefit. He distributed a handout outlining the costs and returns per acre from growing alfalfa hay in western and eastern Iron County as an example of how gross benefit is determined.

Mr. Lee Sim, Utah Division of Water Rights, explained how the numbers for the gross economic benefit are determined.

Rep. Noel said he thought the fines are too excessive, and should be capped. Mr. Thompson stated that the statute was passed to deal with people who refused to implement water cuts during a drought. Mr. Thompson felt that an unknowing violator should not be fined.

Sen. Stowell commented that the change of measuring water usage from metering devices to acres irrigated happened with no notice to the water users. Mr. Sim explained why this happened so quickly.

5. Scofield Lands Transfer Act

Mr. Wayne Pullan, U.S. Bureau of Reclamation, discussed the Scofield Lands Transfer Act, which was included in the mailing packet. He explained that structures were built on federal property below the maximum flood line of the dam in Scofield. During a flood, the structures could float into the spillway and compromise the dam. The proposed federal legislation would allow people who have cabins and trailers below the flood line to purchase the title to those lands with a deed restriction to tie down those structures to ensure they will not float away in a flood.

Commissioner Mike Milovich, Carbon County Commission, expressed support for the proposed legislation but stated getting it passed could be challenging.

The commission members present recommended that this issue be discussed in a future meeting since a quorum was not present to consider whether to support the proposed legislation.

6. 2010 General Session Substitute S.B. 185, "Adoption of Canal Safety Act"

Sen. Davis explained 2010 General Session Substitute S.B. 185, "Adoption of Canal Safety Act," which was included in the mailing packet. He said the bill would reduce the risk of canal breakage by assessing canals and applying a safety rating.

Several commission members expressed concern that the proposed legislation may include more water properties than intended.

Due to the lack of a quorum the Commission members present took a straw poll vote and recommended that the definition of canals be clarified. Sen. Stowell, Rep. Noel, and Mr. Peterson voted in opposition.

7. Other business / Adjourn

Chair Painter recognized Rep. Gibson, who is retiring from the legislature, for his service on the Commission.

Chair Painter adjourned the meeting at 5:20 p.m.