

**MINUTES OF THE
NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT
INTERIM COMMITTEE**

Wednesday, April 18, 2001 - 2:00 p.m. - Room 303 State Capitol

Members Present:

Sen. Parley G. Hellewell, Senate Chair
Rep. Bradley T. Johnson, House Chair
Sen. Leonard M. Blackham
Sen. Mike Dmitrich
Rep. Eli H. Anderson
Rep. Roger E. Barrus
Rep. Jackie Biskupski
Rep. Craig W. Buttars
Rep. David N. Cox
Rep. Margaret Dayton
Rep. Glenn A. Donnelson
Rep. Fred J. Fife, III
Rep. James R. Gowans
Rep. Thomas Hatch
Rep. Darin G. Peterson
Rep. Michael R. Styler
Rep. Stephen H. Urquhart

Members Absent:

Sen. Bill Wright

Staff Present:

Mr. Brian Allred,
Research Analyst
Ms. Jeanenne B. Larson,
Associate General Counsel
Ms. Joy L. Miller,
Legislative Secretary

Note: A list of others present and a copy of materials distributed in the meeting are on file in the Office of Legislative Research and General Counsel.

1. Committee Business - Rep. Johnson called the meeting to order at 2:25 p.m. He asked Rep. Styler, cochair of the Natural Resources Appropriations Subcommittee, to review the joint meetings that have been proposed.

Rep. Styler said it is proposed that the interim committee and the Natural Resources Joint Appropriations Subcommittee meet jointly in August and September. In addition to the meetings, the committees would visit mining operations, state parks, Olympic facilities, and ongoing CUP projects.

MOTION: Rep. Gowans moved to approve the minutes of November 15, 2000. The motion passed unanimously.

2. Executive Committee on Water Rights - Status Report - Ms. Kathleen Clark, Executive Director, Department of Natural Resources, distributed a summary of the executive committee's activities to date. Eight items were identified by the committee as needing to be addressed and reconciled in developing a proposal for dealing with the partial forfeiture issue in

the state. Meetings will be held on the fourth Tuesday of every month until all items have been discussed.

Mr. Bob Morgan, State Engineer, explained that the state engineer is quasi judicial. He cannot declare if a water right has been forfeited, he can only raise the issue. Forfeiture cannot be caused by mother nature. It must be a deliberate act by the person to give up or to abandon part of that water right for at least five consecutive years. He explained how water rights of municipalities can be preserved if not completely used.

Rep. Styler asked if there was any past eminent domain action by any municipalities to condemn water rights for a city or county's use. Mr. Morgan indicated he was only aware of the situation in Summit County where the county commission has given notice to Summit Water Distribution Company that it is condemning their assets, water rights, and distribution facilities.

Ms. Clarke stated she would request that the private property ombudsman research the eminent domain issue and report to the interim committee in a future meeting. She also expressed willingness to regularly report to the interim committee on the activities of the Executive Committee on Water Rights.

3. Update on Arsenic Standards for Drinking Water - Mr. Kevin Brown, Director, Division of Drinking Water, updated the committee on the arsenic standard being proposed by the Environmental Protection Agency (EPA). The current standard of 50 ppb was set in 1942. EPA has proposed as of January 2001 a new standard of 0.01 ppb. Currently if that standard is implemented there are 99 sources of water in the state of Utah comprising 49 water systems that would exceed the proposed standard. Water systems have until January 2006 to comply with the new standard. President Bush's administration has put a temporary stay on implementing the new standard until May 23, 2001. There has been much congressional debate relative to the new standard and at least five pieces of legislation filed to address it. Mr. Brown distributed a list of the water sources and water systems that would be impacted if the standard were to be set at 0.01 ppb. He pointed out that Delta City and the Rural Water Association of Utah are doing a bench scale arsenic removal study that will take 4-5 months to complete which will determine what treatment methods will be beneficial for their use in that area. He reviewed the options water systems would have if the proposed standard is implemented.

Rep. Johnson read a letter drafted to the EPA indicating the committee's concern over the proposed arsenic standard and cautioning them not to impose standards that some cities within the state will not be able to meet.

MOTION: Rep. Buttars moved to approve sending the letter to the President of the United States with a copy of the letter to be sent to the EPA. The motion passed unanimously.

Mr. Brown distributed information regarding the Drinking Water Program. The program regulates water systems that have at least 15 connections or 25 people and serves water to them at least 60 days out of the year. There are approximately 1,000 water systems in the state that the division oversees, which includes 1,800 sources of water. Approximately 85 percent of the water systems serve less than 3,300 people each. Less than 10 percent of the water systems serve 80 percent of Utah's population. He reviewed the current rules and programs the division implements. The future rules listed on the handout are rules that EPA, based on the current regulatory schedule, is expecting the state to implement over the next two years. The division is currently working with water systems in the state to develop a way to fund, at the local level, a portion of the costs to implement the future rules and the number of FTEs that will be required.

Mr. Brown discussed the ongoing concurrency study in Summit County which ties into the issue of eminent domain and water rights. Because of the growth in Summit County there has been an overdevelopment of the aquifers in the area. There is significant decrease in well production in the area as well. As a result, the county passed a concurrency study ordinance that requires water systems to prove how much water they have for production. The division has entered into a cooperative agreement with the county to provide a contractual employee in Summit County to work on county issues and look at state rules relative to water production. They hope to have a basis on what water systems production will be and how they will be able to handle development in the future.

Rep. Ure commented that some wells that 20 years ago were pumping 2,000 gallons per minute are now down to 1,100 gallons per minute. During the last summer of drought, there were people in Summit County that were not able to have water in their homes because there was not sufficient water within the system due to lack of water in the wells. He stressed the importance of addressing the issue.

Mr. Brent Bradford, Department of Environmental Quality, indicated that issues concerning jurisdiction and management have traditionally been addressed locally. Summit County had the authority but not the technical expertise to certify. Mr. Bradford pointed out that the department cannot certify anything for the county but it can provide technical expertise. A department-hired contractor under arrangement to the county is performing the certification service. He noted that where growth is occurring, the state will continue to see the same types of problems. The issue will need to be revisited in the future.

Rep. Ure stated that because of additional requirements being placed on water systems, rural Utah will lose 20-40 percent of its water. It will not be able to use the water because it will not meet the standards. He proposed the item be added to the committee's list of study items.

4. Review of 2001 Reports and Potential Interim Study Items - Sponsors of the different study items gave a brief explanation of the issue and what they are proposing to accomplish. Mr. Allred stated study item #131, Collaboration to Protect Wildlife Habitat, is covered under reports required by the Appropriations Act. The items listed under No. 2 may be reviewed but are not required. Items listed under No. 5 are required but may be received in written form.

Sen. Dmitrich requested that Fishing License Expiration issues be studied.

Rep. Dayton requested that the committee also study the problem of building permits being issued for geologically unstable grounds.

Rep. Gowans also requested that the committee be updated on the grasshopper and cricket situation.

Rep. Johnson indicated he and Sen. Hellewell will be meeting to prioritize the items. He pointed out that it will not be possible for the committee to study all the issues.

MOTION: Rep. Cox moved to adjourn the meeting at 4:25 p.m. The motion passed unanimously.