

**MINUTES OF THE
NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**
Wednesday, October 17, 2007 – 2:00 p.m. – Room W125 House Building

Members Present:

Sen. Darin Peterson, Senate Chair
Sen. Gene Davis
Sen. Margaret Dayton
Sen. Dennis E. Stowell
Sen. Michael G. Waddoups
Rep. Sylvia S. Andersen
Rep. Melvin R. Brown
Rep. Glenn A. Donnelson
Rep. Jack R. Draxler
Rep. Kerry Gibson
Rep. James R. Gowans
Rep. John G. Mathis
Rep. Michael E. Noel
Rep. Patrick L. Painter

Rep. Phil Riesen
Rep. Stephen E. Sandstrom
Rep. Bradley A. Winn

Members Absent:

Rep. Roger E. Barrus, House Chair
Rep. Carl W. Duckworth
Rep. Neal Hendrickson

Staff Present:

Mr. J Brian Allred, Policy Analyst
Ms. Emily Brown, Associate General Counsel
Ms. Joy L. Miller, 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. Committee Business

Chair Peterson called the meeting to order at 2:15 p.m. Rep. Barrus, Rep. Duckworth, and Rep. Hendrickson were excused from the meeting.

MOTION: Rep. Gowans moved to approve the minutes of the September 19, 2007 meeting. The motion passed unanimously. Sen. Davis, Sen. Stowell, Rep. Donnelson, Rep. Noel, Rep. Sandstrom, and Rep. Winn were absent for the vote.

Sen. Dayton distributed a copy of a letter from Mr. Jerry Purdy, civil engineer, outlining his concerns with Nevada's proposal to pump water from the west desert. Sen. Dayton also distributed "Gambling on the Water Table." She discussed a documentary "Water in the West" which aired on KUED.

2. 2007 General Session H.B. 424, "Definition of Agri-tourism"

Rep. Mike Morley explained that the proposed bill defines agri-tourism and provides an affirmative defense for an owner or operator of an agri-tourism activity under certain circumstances.

Mr. Todd Bingham, Utah Farm Bureau, commented on the corn maze operators, and indicated owners are nervous about having people on their property and the potential for liability. He spoke in support of the legislation.

MOTION: Rep. Gibson moved to amend the bill as follows:

Line 32 delete "any" and insert "an" delete "which" and insert "that"
Line 48 delete ", if licensed, permitted or bonded" and after "all" insert "applicable"
Line 49 delete "license, permit, or bond" and insert "operation of the activity"

Rep. Gibson declared a conflict of interest with the issue. The motion passed unanimously. Rep. Donnelson, Rep. Noel, Rep. Sandstrom, and Rep. Winn were absent for the vote.

MOTION: Rep. Gibson moved to adopt "Definition of Agri-tourism" as a committee bill as amended. The motion passed unanimously. Sen. Davis, Sen. Stowell, Rep. Donnelson, Rep. Noel, Rep. Sandstrom, and Rep. Winn were absent for the vote.

3. Department of Natural Resources Report on Funds Expended for Species Protection (Colorado River, June Sucker, and Virgin River plans)

Mr. Allred explained the report is required by statute to be given to the Committee. He outlined the issues required to be included within the report.

Mr. Mike Styler, Director, DNR (Department of Natural Resources), distributed the report "Endangered Species Mitigation Fund (FY 2007)." He stated the DNR is being proactive and targeting species that need to be protected. He expressed concern with the limited attention given to low profile species.

Mr. Reed Harris, Recovery Programs Director, DNR, said the three programs basically affect water use in the Colorado River basin, Virgin River basin, and Utah Lake drainage and were developed in concert with water users. He reviewed the contributions by program partners and expenditures by category for each program. Mr. Harris stated the need to have sufficient water in the system to support the fish. He did not see how that could happen without supplemental flows from projects like the Lake Powell pipeline.

4. Municipal Exemption from Forfeiture of Water Rights

Rep. Painter distributed "Utah Population Growth Projection" and a copy of a Utah Supreme Court case regarding water forfeiture by Nephi City. He briefly reviewed the case with the Committee. He said if a change in the statute can prevent a small municipality from forfeiting a water right simply because it forgot to file the nonuse application, a positive thing has been accomplished.

Mr. Fred Finlinson, Utah Water Coalition, distributed a memorandum from the coalition regarding proposed forfeiture amendments. He noted that the water community believes that forfeiture should be an important part of the state's water policy, as long as it does not apply to their own water rights. He gave a history of the establishment of forfeiture and outlined some proposed changes to statute.

Ms. Jodi Hoffman, Utah League of Cities and Towns, stated the law currently does not give municipal officials the ability to plan for the public's needs. She noted what has been developed is a compromise to allow public water suppliers to plan for the future.

Mr. Paul Fulgham, Rural Water Association of Utah, expressed support for the proposed changes.

Mr. Bingham noted there should be requirements and conditions for how water can be held for future reasonable use. He stated that ignorance to the law does not indicate there should be a change in policy.

Mr. Jerry Olds, State Engineer, asked that the Legislature consider policy issues with regard to forfeiture and determine if it is beneficial and then clearly define the intent. He said it is important to promote the

use, not the holding, of water. He suggested that there may be some flexibility with municipalities concerning future growth and forfeiture issues.

Mr. Ed Bentley, Mayor of Green River City, commented that it is difficult for small cities to plan for future growth because of how dynamically Utah's economy is changing. He asked that the Legislature help the smaller cities with their water rights.

Mr. Richard Bay, Jordan Valley Water Conservancy District, stated that because of rapid growth, they are actively planning and making expenditures for water projects 40-50 years into the future. He said he was very supportive of the concept being proposed.

Chair Peterson turned the chair over to Rep. Gowans.

Mr. David Hartvigsen, water attorney, said he believed this is the correct approach to address the problem, and expressed his support for the proposal. He urged the Committee's support as well.

Rep. Painter asked for input from the Committee. Some members expressed caution in how the exemption is applied and the need to maintain beneficial use.

MOTION: Rep. Brown moved to request staff to draft the concepts that have been raised into legislation for the Committee to consider at the November meeting. The bill should be prepared and made available at least ten days prior to the next meeting. The motion passed unanimously. Chair Peterson, Sen. Stowell, Rep. Donnelson, Rep. Riesen, and Rep. Winn were absent for the vote.

5. Other Committee Business / Adjourn

MOTION: Sen. Davis moved to adjourn. The motion passed unanimously.

Rep. Gowans adjourned the meeting at 4:25 p.m.