

**MINUTES OF THE  
STATE WATER DEVELOPMENT COMMISSION**  
Tuesday, October 9, 2001 - 1:00 p.m. - Room 403 State Capitol

**Members Present:**

Sen. Leonard M. Blackham, Senate Chair  
Rep. David Ure, House Chair  
Sen. Mike Dmitrich  
Sen. Peter C. Knudson  
Sen. Millie M. Peterson  
Rep. Craig W. Buttars  
Rep. James R. Gowans  
Rep. Wayne A. Harper  
Rep. Bradley T. Johnson  
Rep. Brad King  
Mr. Larry Anhder  
Mr. Tom Christensen  
Mr. Don Christiansen  
Ms. Kathleen Clarke  
Mr. Ivan Flint  
Mr. Chris Fullmer  
Mr. Dallin Jensen

Mr. Darrell H. Mensel  
Mr. Cary Peterson  
Mr. Dale Pierson  
Mr. Paul Riley  
Mr. Ron Thompson

**Members Absent:**

Ms. Natalie Gochnour  
Mr. Irvin Haws  
Ms. Dianne Nielson  
Mr. Thorpe Waddingham

**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 can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or contact the Office of Legislative Research and General Counsel.

**1. Commission Business**

Chair Blackham called the meeting to order at 1:05 p.m. He recognized Rep. David Ure as the new cochair and Sen. Peterson and Rep. Buttars as new members of the commission. Chair Blackham indicated that Mr. Scott Ruppe is attending the meeting in place of Mr. Irvin Haws. Mr. Waddingham is excused due to a conflict.

**MOTION:** Mr. Riley moved to approve the minutes of the October 19, 2000 meeting. The motion passed unanimously with Sen. Dmitrich, Rep. Harper, Rep. King, Mr. Christiansen, Mr. Peterson, and Mr. Pierson absent for the vote.

**2. Report of the Executive Committee on Water Rights**

Ms. Kathleen Clarke, executive director, Department of Natural Resources, updated the commission on the efforts of the Committee (Executive Committee on Water Rights). The Committee over the past several months has been looking at the need for legislative revision concerning partial forfeiture of water rights and change applications filed by shareholders. After much debate and compromise three proposed pieces of legislation have been drafted. She distributed a copy of the proposed legislation.

Mr. Mike Quealy, Assistant Attorney General, reviewed the proposed revisions to Section 73-1-4, the existing forfeiture statute. A policy statement included in the draft ties the forfeiture concept to beneficial use of water rights. He indicated that some exceptions to forfeiture have been applied. The legislation also

provides additional criteria to the state engineer and water users so that if they are not using or have some legitimate reason for not using all or a part of their water right, they can file a nonuse application with the state engineer. Mr. Quealy explained that after much discussion the Committee decided that once water is actually diverted and placed in storage, a water user can leave it for as long as they want without having to worry about forfeiture. He reviewed the proposed criteria the state engineer must use to evaluate whether to grant the water user an extension of time.

The commission discussed the history behind the 15-year period of commencing judicial action to declare a water right forfeited.

Mr. Quealy discussed the proposed new Section 73-1-4.5. He indicated the Committee felt strongly that the stockholders in the company who are causing the forfeiture to happen should bear the burden. Once those shares have been identified, they will be redeemed and will no longer have a right to share in the water rights of the company.

Mr. Quealy reviewed proposed Section 73-3-3.5. The shareholder must first file a request with the company board of directors to allow their shares to be subject to the change application. He reviewed the information that must be contained in the request. A water company shall provide a written decision on any shareholder's request for a change application within 120 days from receipt of the request. The company may approve, approve with conditions, or deny the change request. He discussed the remedies available if the shareholder feels the water company has unreasonably withheld its approval.

**MOTION:** Sen. Dmitrich moved to recommend the three pieces of proposed legislation to the Natural Resources, Agriculture, and Environment Interim Committee.

**SUBSTITUTE MOTION:** Rep. Ure moved to go to the next item on the agenda. The proposed bills should be placed on the agenda for the next meeting to be held prior to the legislative session in order to give the members time to thoroughly review the legislation. The Committee should be recognized for their hard work in attempting to resolve these difficult issues. The motion passed unanimously with Ms. Clarke absent for the vote

### **3. Report on River District Issues and Projects**

Mr. Ivan Flint, Weber River District, indicated the Weber Basin upstream reservoirs are at 39 percent capacity. It would take about 150 percent of normal snowpack to get them back to where they should be. He said irrigators were asked to cut their usage by 20 percent. May-August usage was down 17 percent from the previous year. He noted water used on lawns is one place that water can be conserved without much effort. Mr. Flint said it is anticipated that both the Ogden and Weber rivers combined will be at 37 percent of normal capacity.

Mr. Jensen, Salt Lake County River District, asked Mr. Dave Ovard, Jordan Valley Water Conservancy District, to provide the information on the Salt Lake River District. He noted that he spoke with Mr. Nick Sefakis, manager, Salt Lake Metropolitan Water District, who indicated that the cooperation and

conjunctive managements of the districts was helpful in stretching the water supply during the year.

Mr. Ovard said they started out the year with only a 60 percent snowpack. Cities and water districts in Salt Lake County were placed on allocations. Soil conditions are very bad in the watershed and reservoir levels are low. These conditions will probably guarantee mandatory water restrictions next year. Mr. Ovard pointed out Deer Creek is the lowest it has been in the last 40 years. He said the Jordan Valley Water Conservancy District will run out of water in about eight years. Therefore, water conservation is extremely important.

Mr. Christiansen, Provo River District, stated Jordanelle is not yet under full demand. They are in the process of building a project which will complete the delivery system out of the Strawberry Reservoir into the Wasatch Front. It will begin operating in 2004 and will bring enough water down to meet the needs of Salt Lake County. He discussed security precautions that will be taken during the Olympics.

Mr. Paul Riley, Board of Water Resources, asked Larry Anderson, Division of Water Resources, to report on Bear Lake. Mr. Anderson said Bear Lake is the major source for irrigation on the Bear River. The upper 22 feet of the lake is used as a reservoir. As the lake drops during dry cycles, the amount of water released to the farmers decreases. During the year, the farmers received a full water supply. The current elevation of the lake is 5911.5 feet. The lake can be pulled down to elevation 5904 but there is a sandbar that builds up in front of the pump plant. The elevation of the sandbar is 5908. He said they had a hearing with the Army Corps of Engineers to obtain a dredging permit. A ruling on the permit is expected sometime in December or January.

Mr. Tom Christensen, Sevier River District, said the drainage is very dry. He said there is a legal dispute in the southeast part of the basin. There is some concern about what should be done with the Piute Dam.

Mr. Chris Fullmer, Piute and Garfield district, said they have had very little precipitation in the area for the last several months. He stated that even a normal water year would not produce a normal runoff.

Mr. Dale Pierson, Upper Colorado River District, reported southeastern Utah is not experiencing a drought. They have received 110 percent of normal precipitation during the summer. He noted most of the projects being done in the area are small culinary projects. He stated San Juan County is looking at a project to bring water from the state of Colorado into the county.

#### **4. Report on Colorado River Issues**

Chair Blackham indicated the issue would be placed on the agenda for the next meeting.

#### **5. Water Conservancy District Property Taxes**

Mr. Ron Thompson, Washington County Water Conservancy District, distributed a handout "Economically Efficient Funding of Special Districts in Utah." He noted that all citizens benefit from growth in a region so it is reasonable to expect that existing citizens as well as newcomers should share in the costs of growth. Special districts should be allowed to have access to general property tax revenues for capital

expansion, because property taxes appropriately target many of the gains paid to all citizens when growth occurs. Mr. Thompson stressed that depriving special districts access to property tax revenues will increase debt service costs as well as potential defaults on public debt.

Mr. Don Christiansen, Central Utah Water Conservancy District, stated that water projects are very costly and take a long time to plan and put into service. Taking away the property taxes from the development of water will not reduce the use of water, but would reduce the ability to develop water and have a sound, reasonably funded development of the water resources of the state in the years to come.

Mr. Michael Noel, Kane County Water Conservancy District, gave an example of how tax revenues have helped them in Kane County. It is necessary to have seed money to do these projects. He noted the proposal to take away the property taxes from water conservancy districts is shortsighted and would be very harmful to Kane County.

Mr. Ovard commented that property tax is approximately 20 percent of Jordan Valley Water Conservancy District's revenue base. About 80 percent of the water deliveries in the state on a retail basis are made by cities. Property taxes provide stability in the water rate structure. He said 85 percent of the district's property tax revenues come from residential users and 15 percent from commercial. Taking away the taxing authority would result in higher minimum water bills.

Mr. Scott Ruppe, representing Irvin Haws, stated that agriculture will not support the proposed change.

Mr. Dallin Jensen distributed a proposed resolution opposing any legislation that would decrease or discontinue the use of the property tax for development and operation of Utah's water resources. He stated it is bad public policy to consider disrupting the system that was put in place many years ago.

**MOTION:** Mr. Jensen moved the adoption of the resolution.

Mr. Mensel indicated that it is important to hear both sides of the debate. He said there is a perception that water bureaucracy is not accountable to the people.

**SUBSTITUTE MOTION:** Rep. Harper moved to place the issue on the next meeting's agenda and invite parties from both sides to discuss the resolution. The motion failed with Rep. Harper, Rep. Ure, and Mr. Mensel voting in favor.

The commission voted on the original motion which passed with Rep. Harper, Rep. Ure, and Mr. Mensel voting in opposition.

## **6. Other Commission Business**

Rep. Johnson requested that in a future meeting the members discuss ways to encourage the development of small water projects.

The next meeting of the commission was scheduled for Monday, November 26 at 1:00 p.m.

**7. Adjourn**

**MOTION:** Sen. Knudson moved to adjourn the meeting. The motion passed unanimously with Sen. Dmitrich, Rep. Buttars, Rep. Harper, Mr. Anhder, Ms. Clarke, Mr. Jensen, and Mr. Thompson absent for the vote. Chair Blackham adjourned the meeting at 4:05 p.m.