

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

Wednesday, May 22, 2002 – 9:00 a.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. 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
Rep. Margaret Dayton

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 by contacting the committee secretary, Joy Miller, at 538-1032.

1. Welcome and Committee Business

Chair Hellewell called the meeting to order at 9:15 a.m. Rep. Dayton was excused from the meeting.

MOTION: Rep. Urquhart moved to approve the minutes of the April 24, 2002 meeting. The motion passed unanimously. Sen. Blackham, Rep. Barrus, Rep. Buttars, Rep. Hatch, and Rep. Styler were absent for the vote.

2. State Parks Closure Update

Mr. Courtland Nelson, Director, DPR (Division of State Parks and Recreation), distributed a handout "Division of Parks and Recreation Proposed Budget Cuts/Alternative Revenue Sources." He explained that legislative intent language in H.B. 3 required the DPR to seek budget savings equivalent to a \$500,000 reduction in General Fund support through park closures, and to report to the Executive Appropriations Committee with recommended closures by December 1, 2002. The report was made on April 23, 2002. The Board of Parks and Recreation approved four recommendations which the Executive Appropriations Committee rejected. Mr. Nelson pointed out that the DPR recommends three proposals. It recommends accepting the plan for alternative management or closure of Jordan River, Ft. Buenaventura, and Minersville State Parks, resulting in a savings of \$403,300 for FY 2003. Mr. Nelson stated DPR also recommends a \$2 increase in entrance fees at the six Wasatch Front/Back boating parks, a \$2 per night camping fee adjustment statewide, and a \$.50 increase per nine holes of play at Wasatch Mountain golf course. It is also proposed to eliminate the Senior Citizen Fee Waiver and allow annual passes to senior citizens at half price or pay an administrative fee of \$10-\$25. The estimated revenue for 2003 is \$125,000 (partial year) and \$500,000 for 2004.

MOTION: Sen. Dmitrich moved to approve the three closures recommended by the DPR. The motion passed unanimously.

3. Report on Drought Conditions

Mr. Larry Anderson, Director, Division of Water Resources, distributed information on Utah's water conditions. He stated that water conditions are worsening throughout the state. He reviewed the stream flow projections for the different river basins in the state and indicated that none of them will be at 100 percent. Utah's major storage reservoirs have dropped from 3.7 million acre feet of water to 2.3 million acre feet. He noted that farmers who rely on direct stream flow will run out of water. Those who have storage water will be in much better shape. Mr. Anderson indicated that in San Juan County the two small reservoirs Recapture and Lloyd's Lake received virtually no runoff this year. Recapture has a conservation pool of 2,500 acre feet and Lloyd's Lake has a conservation pool of 900 acre feet. Both have been connected into the culinary water systems for Monticello and Blanding. There will be no water release for irrigation purposes out of either of the reservoirs. The two cities have talked to the Division of Wildlife Resources about tapping into the conservation pools if necessary. Mr. Anderson stated that of the communities contacted throughout the state, all have indicated they will have enough water for the year. Some communities may have to implement conservation measures. He stated that agriculture will have the greatest impact.

Mr. Bob Morgan, Director, Department of Natural Resources, explained that most of the conservation pools are contractual agreements. If a point is reached where the water is needed for culinary purposes in the home, there are latitudes within the agreements to obtain water within the conservation pools. They generally do not tap into conservation pools for agricultural uses.

Mr. Mike Quealy, Assistant Attorney General, indicated that the majority of conservation pools purchased by the Division of Wildlife Resources were paid for with federal dollars. The federal government watches carefully to ensure that the conservation pool is preserved.

Commissioner Cary Peterson, Department of Agriculture and Food, stated that a letter from the committee to Utah's congressional delegation and the Secretary of Agriculture on emergency drought and disaster relief, temporary access to CRP grazing, and making available any BLM/Forest Service grass banks unused permits would be extremely helpful.

MOTION: Rep. Gowans moved that a letter be prepared and signed by the committee chairs requesting assistance on the issues outlined by Commissioner Peterson. The motion passed unanimously.

Rep. Peterson declared a conflict of interest because he has CRP property.

4. Report on Potential Water Development

Mr. Anderson stated that over the years the Division of Water Resources has funded 1,200 water projects. He distributed a map outlining some of Utah's potential dam sites, new dams, and reservoirs proposed for enlargement. He pointed out that two new dams have been constructed in the last two years. Sand Hollow in Washington County will hold 40,000 acre feet of water and was constructed to store additional water in the Virgin River Basin and also to be the terminal reservoir if the Lake Powell Pipeline is built to deliver water to southwestern Utah. The other new dam is Dairy Dam in Sanpete County to be used as an irrigation reservoir. He discussed the proposed replacement dam for Wide Hollow and reviewed some of the other potential dam sites. He said they will continue to build smaller dams. Mr. Anderson indicated that much work and investigation has been done concerning the proposed Lake Powell Pipeline to bring 70,000 acre feet of water to southern Utah. The estimated cost of the total project is about \$300 million. The water would cost approximately \$300 per acre foot. He said they continue to look at the Bear River Basin as a potential water supply for the Wasatch Front. Utah through the Bear River Compact has the right to develop a substantial quantity of additional water in the Bear River. Mr. Anderson briefly discussed the proposed dredging of Bear Lake. He said the dredging is necessary to get water to the farmers.

5. Interstate Transportation of Utah Water

Mr. Morgan stated that a lot of interest was created in the early 1990s because of several proposals that had come to the state from private enterprise wanting to purchase water in the state and take it into the lower basin. He explained that there are many issues involved with the exportation of water. One of which is that the issue of interstate commerce and being able to transfer a personal property right across state borders has been litigated. He said the current statute was enacted to protect the citizens of the state concerning any exportation of its water. It would only be through extensive public comment, and other activity associated with notifying users that would be affected in Utah and out of state, that water would be exported.

Mr. Quealy discussed the case of *Sporhase v. Nebraska* which was handed down by the U.S. Supreme Court in 1982. Sporhase was a farmer whose property straddled the Colorado/Nebraska border. The farm was irrigated from a fairly large well located in Nebraska. Sporhase had historically taken some of that water through a pipeline into Colorado to irrigate the portion of the farm there. Nebraska officials told him he couldn't export the water to the other side of the farm because it crossed the state border. The case eventually found its way into the U.S. Supreme court which held that water was an article in interstate commerce. Mr. Quealy said no one in the west had thought of water as an article in interstate commerce. As a result of that court case, some states had to amend their statutes to meet constitutional requirements. Utah's water export statute begins with a policy statement that is to ensure the welfare of its citizens. It states that Utah recognizes that under certain conditions, the transportation of water for use outside the state may not be contrary to the conservation of Utah's waters or the public welfare. It provides for a special application to be filed with the state engineer and outlines the requirements that must be met in order to export water from the state. He said if the statute were to be made much more restrictive, it would be open to constitutional challenge. Mr. Quealy noted that since 1991 no application has been filed under the statute. It is very difficult to meet the criteria.

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MOTION: Rep. Donnelson moved to adjourn the meeting. The motion passed unanimously, with Rep. Biskupski absent for the vote. Chair Hellewell adjourned the meeting at 11:20 a.m.