

**MINUTES OF THE  
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**  
Wednesday, June 19, 2002 – 2:00 p.m. – Room 223 State Capitol

**Members Present:**

Sen. Carlene M. Walker, Senate Chair  
Rep. David L. Hogue, House Chair  
Sen. David L. Gladwell  
Sen. Beverly Ann Evans  
Rep. Stephen D. Clark  
Rep. David N. Cox  
Rep. Fred J. Fife III  
Rep. Kory M. Holdaway  
Rep. Joseph G. Murray  
Rep. Richard M. Siddoway  
Rep. Max W. Young

**Members Absent:**

Sen. Paula F. Julander  
Rep. Scott Daniels  
Rep. Darin G. Peterson

**Staff Present:**

Mr. Joseph Wade, Research Assistant  
Mr. Robert H. Rees, 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. Committee Business**

Chair Hogue called the meeting to order at 2:35 p.m. Sen. Julander was excused from the meeting.

**MOTION:** Rep. Siddoway moved to approve the minutes of the April 24 and May 22, 2002 meetings.

Rep. Holdaway pointed out that in the April 24, 2002 minutes under agenda item 3, the reference to "VEC" should be changed to "VECC (Valley Emergency Communications Center)."

Rep. Siddoway amended his motion to approve the minutes of the April 24 and May 22, 2002 meetings with the changes noted by Rep. Holdaway. The motion passed unanimously. Rep. Cox and Rep. Young were absent for the vote.

**MOTION:** Rep. Hogue moved to request the continuation of the Special Districts Subcommittee. The motion passed unanimously. Rep. Cox and Rep. Young were absent for the vote.

**2. Local Planning for Source Protection of Drinking Water and Surface Waters**

Mr. Brent Bradford, Deputy Director, DEQ (Department of Environmental Quality), stated that the existing planning process raises questions such as jurisdiction and who should have responsibility to put the watershed protection plans together, will legislative changes be necessary, and is there a need for incentives to move the process forward. Mr. Bradford said last year a working group was formed to find a solution to the problem.

Mr. Sumner Newman, DDW (Division of Drinking Water), distributed a summary of the groundwater and surface water source protection rules. The purpose of the rule is to meet the requirement of the federal statute and the EPA (Environmental Protection Agency) to protect Utah's sources of drinking water. He pointed out that Utah has 470 public drinking water systems with 2,100 sources of drinking water, the vast majority of which are springs or groundwater. He said in addition to meeting federal requirements, they felt it important to leave up to the water systems the major responsibility for determining the shape of their

plans. Mr. Newman stated the four basic requirements of the rule are to: 1) delineate protection zones, 2) inventory pollution sources/potential contamination sources and prioritize, 3) develop a management plan, either regulatory or nonregulatory, for potential contamination sources, and 4) develop a contingency plan. He reviewed their assessment of the rule's effectiveness. It has been touted by EPA Region VIII as the best program in the region. There is over a 97 percent compliance rate with the rule among water systems.

Rep. Hogue turned the chair over to Sen. Walker.

Mr. Don Ostler, Director, DWQ (Division of Water Quality), distributed a summary of information on watershed planning. He explained that the DWQ is responsible for protecting the quality of surface water, streams and lakes, and groundwater. Utah has over 14,000 miles of streams of which 72 percent consistently meets water quality standards. Mr. Ostler said about 150 of the watersheds in the state have pollution problems. Causes of pollution include point, nonpoint, and natural sources. Approximately 80 percent of the pollution comes from nonpoint sources. Mr. Ostler reviewed examples of watershed planning efforts being undertaken by the Division. He noted that many watershed groups are now functioning. DWQ depends on watershed groups to facilitate development and implementation of water quality improvement plans. He pointed out that no stakeholders are prevented from participation. The formation of watershed groups is voluntary and open to everyone.

Mr. Larry Anderson, Director, DWR (Division of Water Resources), said DWR is responsible for statewide water planning, funding of water development projects, statewide water conservation program, and interstate stream negotiations and compacts in the state. They are actively involved with DWQ and DDW when doing statewide water planning. Most of DWR expertise and knowledge relates to development of water. Mr. Anderson said a state water plan was prepared in 1990. They have written individual basin plans for each of the river basins of the state. He said DWR has been in existence since 1947 and since that time has funded 1,200 water projects which deliver about 1,000,000 acre feet per year. He discussed other groups that deal on the fringes of water quality and discussed the efforts that have been made to meet the water quality standards that have been set in the Colorado River Drainage.

Mr. Brian Harris, District (Jordan Valley Water Conservancy District), said the goal and concern of water utilities is to provide safe, clean drinking water for their customers and for future generations to come. Controlling pollution at its source is the first barrier in protecting drinking water sources. It is always almost much less expensive to treat the water than to try and replace it if it were to become contaminated. Many utilities across the state utilize surface waters for their primary source of drinking water. In Salt Lake and Utah counties, over 1,000,000 residents and thousands of businesses rely on water supplied from Deer Creek Reservoir and the Provo River. If Deer Creek were to become contaminated, there would be no backup. Mr. Harris indicated that the watersheds that supply the District are huge and currently cover five counties. He listed the many contamination sources that occur daily within the watershed sources which include businesses and recreational activities. He said water utilities lack authority and jurisdiction to enact and enforce protective measures.

Mr. Fred Finlinson, attorney, Callister, Nebeker & McCullough, and cochair of the workgroup, said that one of the first things the working group concluded was that those who are supplying water don't have adequate legislative authority to protect the water from pollution. First class cities have limited authorization to protect their watersheds. Cities and towns also have jurisdictional issues that need to be resolved. Mr. Finlinson pointed out that counties have no authority related to water. Many public water systems are

special districts which have no authority to deal with pollution, however, they have the authority to develop and provide water. Mr. Finlinson commented that land use planning is an integral element of protecting water sources. He indicated the working group decided to attempt the establishment of a Utah Water Quality Advisory Councils Act. The goal was to create a forum in which those involved could meet together in a voluntary atmosphere and discuss what could be done to improve the quality of the watershed. A draft of the proposal is included in the mailing packet.

Mr. Mark Walsh, Utah Association of Counties, said counties have land use planning authority but not all counties have used that authority. The most significant issue facing watershed protection is who will control the use of the lands adjacent to the waters of the state and to the systems generally that exist in the state. Counties have authority to plan on very little land but are in support of planning for watershed protection. The ownership of water and watersheds differs depending on the county. Mr. Walsh said they would have some concerns if the Legislature decided to remove the land use control authority from local elected officials and place it in the hands of people not directly answerable to the public. He urged that caution be used in developing a resolution.

Ms. Florence Reynolds, Salt Lake City Public Utilities, emphasized that the source protection program initiated by the state is a very workable process and is important to the quality of drinking water. Salt Lake City has adopted many ordinances and enforced regulations in its watershed. The water quality Salt Lake City enjoys from its watershed canyons is excellent. It is the second largest landowner within its watersheds. Ms. Reynolds stated it is an important authority for water utilities in general to have protection over its resources. Salt Lake City does not act in that capacity on its own. It works closely with the state, county, and federal agencies in order to protect those properties.

Mr. Joe Gallagher, Statewide Coordinator for Utah Forests, U.S. Forest Service, indicated the Forest Service has a strong and compelling interest in the water quality of the state. Much of the water Utahns enjoy begins as snowfall on the national forests. He said the Forest Service would be interested in being a part of the process to ensure cooperative management of resources. He pointed out that there are existing mechanisms in place for that type of interaction already.

Mayor Mont Evans, Riverton City, gave an example of the problems created by the fractured way water in Utah is managed. The city of Riverton has its own water system. Most of the wells are in the boundaries of the city with the exception of one that is in Bluffdale City. He said the city in order to protect its watershed passed ordinances regulating the kind of chemicals used. By passing the ordinances the city can certify its water system. However, Riverton has not received the necessary cooperation from Bluffdale to resolve the problem. Riverton City does not have the jurisdiction to provide for the regulation of its watershed. He stated some assistance is needed to help resolve the problems.

Mr. Wes Quinton, Utah Farm Bureau, said they have been very proactive in response to improving water. They operate under the principles of creating a voluntary, incentive based compliance mechanism. They have a water quality specialist that works with all affected entities to try and bring some consensus on what agriculture is contributing to water quality problems. He said they also work very closely with the DWQ through programs to help landowners voluntarily contribute to improving the waters. Mr. Quinton commended the direction of a voluntary response through the councils as proposed by Mr. Finlinson.

Mr. Shane Jones, Bluffdale City Engineer, commented that there are layers of government and regulation

regarding water quality and source protection. Although Bluffdale would benefit from a source protection ordinance, the city council is apprehensive when the issue is raised because the city sees it as another mandate they need to comply with that is not funded and they lack the technical staff and ability to enforce it. He noted there is a difference between regulation of land use and regulation of management of the land use. Land uses must be managed properly. Laws that already address management of the pollution are probably best suited to meet the needs of providing quality water to the state.

Mr. John Bennett, Governor's Office of Planning and Budget, reported that the Legislature has been generous in funding the Commission (Quality Growth Commission) with the LeRay McAllister Fund. One of the Commission's major focuses has been on watershed protection. In the last four years it has preserved over 30,000 acres of land in the watersheds of the Wasatch Front. He pointed out that the category of land under the jurisdiction of local governments is 21 percent.

**MOTION:** Rep. Hogue moved to request the Department of Environmental Quality to meet with interested parties and come back before the committee in October with recommendations of how to proceed. The motion passed unanimously. Rep. Clark, Rep. Cox, and Rep. Young were absent for the vote.

**MOTION:** Rep. Holdaway moved to encourage the department that the recommendations be of a voluntary nature. The motion passed unanimously. Rep. Clark, Rep. Cox, and Rep. Young were absent for the vote.

### **3. Municipal Plan for Moderate Income Housing**

Mr. Gary Crane, Layton City Attorney, commented that last year H.B. 49 involved some changes in the moderate housing provisions of the state code. There are three provisions in the proposed legislation which involve diminishing the burden on small cities and towns under 1,000 population, limiting the remedies provided in the law to more of an incentive than a remedy, and changing the reporting requirement to every second year. He said the Fannie Mae Partnership is going to do a study on how effective the affordable housing provisions have been by researching the condition of affordable housing in Utah. Mr. Crane stated they would like to monitor the Fannie Mae report and meet with interested parties to determine how it may best be addressed.

Ms. Heather Tritten, Utah Issues, agreed that waiting for the results of the Fannie Mae report is important. She said they are interested in a little more enforcement than what is in the proposed legislation. She clarified that moderate housing for the state is that people who make 80 percent or less of the area median income are not paying more than 30 percent of that income for housing.

Mr. Tas Biesinger, Executive Vice President, Home Builders' Association of Utah, indicated the purpose of H.B. 295 was to try and encourage cities to consider moderate income housing. He committed that after the Fannie Mae report is complete he will meet with the others to determine if there is a problem and help to develop a solution.

### **4. Other Items / Adjourn**

**MOTION:** Sen Evans moved to adjourn the meeting. The motion passed unanimously. Chair Walker adjourned the meeting at 4:55 p.m.