

**MINUTES OF THE  
WATER ISSUES TASK FORCE**

Tuesday, June 14, 2005 – 3:00 p.m. – Room W125 House Building

**Members Present:**

Rep. David Ure, House Chair  
Sen. Mike Dmitrich  
Sen. Thomas V. Hatch  
Rep. Roger E. Barrus  
Rep. David N. Cox  
Rep. Margaret Dayton  
Rep. Ben C. Ferry  
Rep. James Gowans  
Rep. Brad King

**Members Absent:**

Sen. Patrice Arent  
Sen. Beverly Ann Evans  
Sen. Peter C. Knudson  
Rep. Michael T. Morley

**Staff Present:**

Brian Allred, Policy Analyst  
Mark B. Steinagel, Policy Analyst  
Jeanenne B. Larson, Associate General Counsel  
Chris Parker, Associate General Counsel  
Joy L. Miller, Legislative Secretary

**Note:** A list of others present and a copy of related materials can be found at [www.leg.utah.gov](http://www.leg.utah.gov) or by contacting the task force secretary, Joy Miller, at 538-1032. A recording of the meeting may also be available from the task force secretary.

**1. Task Force Business**

Chair Ure called meeting to order at 3:10 p.m. Sen. Arent and Sen. Evans were excused from the meeting.

**MOTION:** Rep. Cox moved to approve the minutes of the May 12 - 13, 2005 meeting. The motion passed unanimously with Sen. Dmitrich absent for the vote.

**2. Ground Water Management Issues**

Mr. Mike Brown, President, Escalante Valley Water Users Association, commented that solutions to the problems that have been raised include allowing local control, considering each basin on an individual basis, considering more efficient irrigation, planning for areas of recharge, and moving forward in minimizing the negative effects on agriculture in the rural counties.

Mr. Dee Hansen, Consulting Engineer, gave a presentation on the vision statement for water users from Escalante, Parowan, Pahvant, and Curlew valleys. He reviewed the history of ground water which cannot be treated the same in all valleys. He reiterated the available options as outlined by Mr. Brown. By working together with the Legislature, a policy can be developed that will benefit current and future generations.

**3. Division of Water Rights Ground Water Management Plans**

Mr. Jerry Olds, State Engineer, gave a presentation on ground water management plans and the approach that has been used in their development. He noted that plans have been developed in 11 basins in the state. He requested that the Task Force consider adopting a statute that would allow the State Engineer to adopt ground water management plans. The statute should be flexible and allow for local conditions. Mr. Olds distributed and discussed "Twentieth Biennial Report" for the biennium July 1, 1934 to June 30,

1936, regarding the prior appropriation system which provides flexibility, represents the public interest, and protects the property rights of individuals.

Rep. Ferry reported that the Water Reuse working group received an overview from the Divisions of Water Rights and Water Resources. The Department of Environmental Quality gave a perspective on reuse vs. recycle. The working group also discussed a proposed Reuse Act.

Sen. Hatch reported that the Administration of Groundwater and Surface Water working group recognizes the diversity of each basin and the importance of allowing the state engineer the flexibility to administer water management plans. The plans should be driven by local stakeholders. The working group raised the issue of costs associated with the plans and who should pay those costs.

#### **4. Prior Appropriation Doctrine - Ground Water**

Mr. Parker distributed and reviewed "Prior Appropriation in the Groundwater Context." As scientific knowledge about groundwater resources has increased, it has become clear that, in some basins, many junior rights cannot be satisfied without exceeding the resource's safe annual recharge limit. Prior appropriation is, and always has been, the law in Utah and the safe annual recharge measure is a rational way of preserving the state's resources. He reviewed potential solutions to the groundwater issues.

Ms. Larson distributed "Prior Appropriation of Groundwater in Western States." She reviewed correlative rights doctrine, prior appropriation doctrine, and riparian rights. She pointed out that the constitutionality of the extension of groundwater to prior appropriation has been challenged as a taking of property without due process of law, but western states have uniformly rejected the challenges.

Mr. Warren Peterson, Waddingham & Peterson, distributed a letter to the Task Force outlining his list of proposed groundwater management solutions. He said it is important to recognize that the demand for Utah's water resources has surpassed the resource availability in many parts of the state, but steps can be taken to wisely manage the resource to assure sustainability for ourselves and future generations.

Mr. Steve Clyde, Clyde Snow Sessions & Swenson, discussed his letter to the Task Force which was included in the mailing packet. He said the state could not afford to throw away priority doctrine. Investments have been made based on the security of those water rights and solutions should be developed within that concept. He pointed out that Mr. Olds does not have the manpower and resources to adequately fulfill his responsibilities. He stated that the Task Force should also address issues such as recharge projects and return flow rights.

Future meetings of the Task force were scheduled for July 21 at 1:00 p.m. and August 9 at 1:00 p.m.

Ms. Martha Franks, Tremonton farmer, said she is worried about her water rights and the amount of money they have invested in proving them up.

**MOTION:** Sen. Hatch moved to adjourn the meeting. The motion passed unanimously.

Chair Ure adjourned the meeting at 5:40 p.m.