

EXECUTIVE WATER TASK FORCE BULLETS

May 19, 2011, 1:30 p.m.
Room 1010, Natural Resources Complex

Task Force Members:

Mike Styler, Department of Natural Resources
Voneene Jorgensen, Bear River Water Conservancy District
Sterling Brown, Utah Farm Bureau
Dallin Jensen, Parsons, Behle & Latimer
Steve Clyde, Clyde Snow and Sessions
Dale Pierson, Rural Water Association of Utah
Craig Johansen, Bureau of Water Resources
Troy Rindlisbacher, Utah Irrigation Association
Ed Bowler, Washington County Conservancy District (participating by phone)

Excused:

Warren Peterson, Farmland Reserve, Inc.
Mark Stratford, Ogden City/Utah League of Cities and Towns
Tage Flint, Weber Basin Water Conservancy District
Fred Finlinson, Utah Water Coalition
Mike Mower, Governor's Office of Planning and Budget

Ex-Officios:

Kent Jones, Division of Water Rights
Boyd Clayton, Division of Water Rights
Dennis Strong, Division of Water Resources
Norm Johnson, Utah Attorney General's Office

Guests:

Senator David P. Hinkins
Jay Franson, Franson Civil Engineers
Jared Parkinson, Attorney at Law
Justin Record, USA Bureau of Reclamation
Scott Martin, SCM
Jodi Hoffman, Utah League of Cities and Towns
Mark Anderson, Weber Basin Water
Mike Wilson, Metropolitan Water District of Salt Lake and Sandy
Gene Shawcroft, Central Utah Water Conservancy District
Terel Grimley, Pine View Water Systems
Richard Bay, Jordan Valley Water Conservancy District
Bob Fotheringham, Cache County
Rusty Vetter, Salt Lake City Corporation
Patrick Casaday, Sandy City
Todd Adams, Division of Water Resources
Mike Quealy, Utah Attorney General's Office
Ward Wagstaff, Utah Attorney General's Office
Marianne Burbidge, Division of Water Rights

I. Welcome and Introductions

Mike Styler welcomed everyone. He introduced Senator Hinkins and then asked everyone to introduce themselves. He noted that Ed Bowler is attending via phone and excused Warren Petersen; Mark Stratford; Tage Flint; Fred Finlinson and Mike Mower.

II. Clean-up of Water Rights statutes – Kent Jones (*handouts attached to original agenda*)

Kent Jones, State Engineer, presented on the following proposed items. Discussions were made and each unanimously approved to be prepared for approval at the next legislative session.

- Repeal 73-2-22-1 – since it is redundant with 73-2-23.1.
(Unanimously approved, unless already taken care of in last session)
- Update 73-2-22 to be consistent with current statute. (Handout with suggested language distributed)
(Unanimously approved)
- Revise 73-2-1 to make rulemaking on reuse (73-3c) optional rather than required since the process is now well defined in statute. (Handout with suggested language distributed)
(Unanimously approved)
- Address criteria for extending “wholesale electrical cooperative” applications beyond 50 years. The statute currently provides no specific criteria to consider (73-3-12(4)(b)). (Handout with suggested language distributed)
(Dallin Jensen motioned and Craig Johansen seconded. The motion was unanimously approved)
- 73-5-13. Claim to surface or underground water not otherwise represented – Information required – Corrections – Filing – Investigation – Publication – Judicial action to determine validity – Rules. (Handout with suggested language which removes notary requirement for professional engineer/surveyor distributed)
(Dallin Jensen motioned and the motion was unanimously approved)
- 73-3-16 Proof of appropriation or permanent change – Notice – Manner of proof – Statements – Maps, profiles, and drawings – Verification – Waiver of filing – Statement in lieu of proof of appropriation or change. (Handout with suggested language which removes notary requirement for professional engineer/surveyor distributed)
(Dallin Jensen motioned and Voneene Jorgensen seconded. The motion was unanimously approved)

Ward Wagstaff, Attorney Generals Office, presented on the following proposed items. Discussions were made and each unanimously approved to be prepared for approval at the next legislative session.

- 73-4-3 Claims filed with state engineer rather than the courts. List of claimants maintained by state engineer rather than court. (Handout with suggested language distributed)
(Dallin Jensen motioned and the motion was unanimously approved)
- 73-4-4 Updated language to deliver form for claimant's statements either by mail or electronic means. (Handout with suggested language distributed)
(The motion was unanimously approved)
- 73-4-11 Revised to allow publishing proposed determinations by sub-basin and delivery of the report by electronic means. Revised at meeting with change in proposed language on electronic distribution of report to read: through which receipt is verifiable. (Handout with suggested language distributed)
(Steve Clyde made motion to accept with changes made by Ward Wagstaff to reflect "verifiable" and resubmit for final approval to Water Task Force. It was unanimously approved)

Craig Johansen spoke on behalf of matters of jurisdiction. The Division of Water Rights provided a handout at Mr. Johansen's request, which included the following:

- 1) Utah Code Section 40-8-22, which authorizes DOGM to enter into cooperative agreements with state agencies regarding mining activities they permit.
- 2) Memorandum of Understanding Between Utah Division of Oil, Gas & Mining and Utah Division of Water Rights for Coal Mining Operations effective November 18, 2005
- 3) Supreme Court Decision on Salt Lake City v. Silver Fork Pipeline Corp. filed January 7, 2000.

Mr. Johansen expressed the concern DOGM currently has statutory responsibility to determine if mining operations are interfering with existing water rights and order replacement of water or compensation. He suggested this was a water rights issue that should be regulated by the state engineer.

After discussion Mike Styler moved to place this matter on the Study Item list. It was unanimously agreed.

Craig Johansen spoke on behalf of diligence claims for livestock watering on public lands and federal government rather than livestock owner claims of water right ownership. After further discussions on the purpose of diligence claims Mike Styler moved to place this matter on the Study Item list. It was unanimously agreed.

III. Review of Proposed Study Items

Mike Styler reported:

- At the last April Meeting, Mike agreed to provide a list of discussion items from the minutes as well as last year's list for prioritization of Task Force members and guests, a list was distributed (*handout attached to original minutes*).

After further review the following items were decided upon for the next agenda items.

- ❖ Exchanges - reinstatement
- ❖ Forfeiture Statue – Adjudication (to include Mark Stratford's proposal)

IV. Other Items or Issues – All

- Support Navajo Water Settlement
- Educate Legislators as a mission of the Executive Water Task Force
- Analysis of Water Banks in the Western States (*handout by Bob Fotheringham to be revisited at the June 16th meeting*)

Mike again thanked the Taskforce and guests for their discussion and comments and scheduled the next Task Force meeting for **Thursday, June 16th at 1:30 PM** to be held at DNR in Room 2000.

Mike Styler adjourned the meeting at 3:45 p.m.

The minutes were prepared by Marianne Burbidge, Division of Water Rights.