

EXECUTIVE WATER TASK FORCE BULLETS

May 22, 2008,
Natural Resources Complex

- 1) Options on the revision of 73-3-21. After discussion the task force voted with three dissenting votes to recommend the statute be repealed.
- 2) Revision drafts by attorney generals office and Representative McIff were presented for 73-3-15 to avoid constitutional issues raised in the Supreme Court related to dictating in statute how long courts have to complete a water right judicial action. The drafts focus on either providing judicial discretion or clear conditions and burden on plaintiff to demonstrate diligence. AG's office was given the assignment to review the drafts and discuss with Rep. McIff.
- 3) Exemption of water rights in water companies from attachment. Legislative Research reported it would be unconstitutional if another remedy is not available. It was reported that a legislator may be preparing a bill file which statutorily permits taking a portion of a water right as a remedy to some acts of a company or allows water rights to be distributed to share holders so there is a conflict with this proposal. Suggestions were made that companies should be given opportunity to settle disputes before attachment and/or there should be a state insurance pool for water companies to allow for affordable insurance. Mr. Peterson will review the issue with Representative Painter and provide additional suggestions.
- 4) The group agreed to invite a presentation on the property rights ombudsman at the first of the next meeting as a lead in to a water rights ombudsman discussion.
- 5) Revision of the proof requirements for public entities (hb225 in 2008 legislature and refiled for next session). Mr. Bay indicated he was working with Rep. Painter on the bill to provide for certification of rights where investment in infrastructure has been made but the water has not been placed to full use. The state engineer was assigned to work with Jordan Valley to address issues and return a proposal to the next meeting.
- 6) Mr. Finlinson reported that the water coalition is looking at a bill to address processing of change applications and requested the opportunity to develop a proposal in the coalition and bring it to the task force at the next meeting.
- 7) Mr. Bowler reported that he has been discussing title issues with the Division of Water Rights and will continue the discussion and bring a proposal back to the task force.