

# MEMO

## DRAFT

Date: January 15, 2001  
To: Committee Members  
From: Russell O. Brown  
Subject: Minutes of January 12, 2001 Meeting

The transfer of water from surface rights in the Provo River system to wells has been a subject of discussion in Provo River Distribution Board Meetings for several years. A listing of approved change applications and exchanges that have been approved by the State Engineer was given to the Distribution Board members in the January 9, 2001 meeting. The list is attached. IN the meeting a committee was appointed to review the list and to recommend to the Board a policy regarding applications of this type.

The committee consists of the following:

J. Edwin Ure	Kamas Valley Canals
Daryl Devey	Central Utah Water Conservancy District
Russell O. Brown	Provo Reservoir Water Users Association
Stanley Roberts	Provo River Commissioner

Commissioner Roberts presented some background information on the change applications.

The changes consist of three types:

1. Change in the point of diversion of a small decreed river right from the river to a well;
2. A shareholder in the stock canal company changes the point of diversion of water

represented by his stock from the company's point of diversion to a well;

3. Exchange of reservoir water for a well spring or another diversion point. The quantity may be large or small. The user of the water is not the owner of the storage water right.

A meeting of the committee was held January 12, 2001 at the CUWCD building at 9:00 A.M.

All members of the committee were in attendance.

The discussion centered around identification of the problem, the impact on the river system, individual users, stock canal companies and any other entities that might be involved. The following is a summary of the discussion:

- The applications and exchanges included on the list have been approved by the State Engineer.
- There are only a few where the State Engineer indicates that a well has been drilled. There may be others where the well has been drilled with no record being filed with the State Engineer.
- None of the applications listed are currently being assessed.
- The diversion to the right holder is not being reduced by the amount of application, for most of the applications.
- Not included in the listing are 100 applications handled by the CUWCD which are transfers from storage to wells. They are assessed separately from the assessment for river operation and the assessment is passed through to the end user by the District.
- It appears from the development trends that the number of applications will increase and it is important to be pro-active rather than reactive.

Two separate issues were discussed:

1. Who is responsible for determining beneficial use?

The river commissioner

The state engineer

The water company or right holder

The individual user

2. How can the cost to the river system be apportioned equally to all users and how can it be collected?

The state water law requires an appropriator of water to put the water to beneficial use. After 5 years of non-use, the water is subject to forfeiture.

The appropriator is responsible for the beneficial use of the water. Transfer of water to wells has not involved the transfer of title to the water, therefore, it appears that the original right holder should be responsible for beneficial use.

Should the right holder be required to report on an annual basis, the diversion by holders of change are exchange applications to the River Commissioner so that he can adjust the holder's diversion. Should this reporting be limited to "large" uses, i.e. small users be ignored or handled on the amount of the application.

Should the State Engineer limit the number of wells? In Utah County, individual wells are not permitted in subdivisions.

One possible program would require the owners of the right, as a condition of the approval of the change, to require the applicant to:

- Install a meter on his well
- Report the meter reading to the owner annually

- Pay a river assessment fee in addition to his annual share assessment
- Include a forfeiture provision in the application approved.

The owner of the right would report the uses to the River Commissioner annually.

It might be difficult to retrofit these provisions on applications that have been approved.

Another possible program would be to identify by location all of the change applications on a list. The River Commissioner would inspect them at least once every 5 years to determine if they are active. The assessments would be made directly to the user by the State Engineer and the River Commissioner would be responsible for collection.

The amount of the use would be assumed to be the amount of the application.

Another possible program would be to separate the application holders into different classes and have a different program for each class:

- Wells or springs that serve an individual small lot - a single user;
- Wells or springs that serve an area with a distribution system that serves several users.

There are on the list the following that should probably be considered separately:

The Bureau of Reclamation

The Provo River Water Users Association

Geneva Steel Company

Salt Lake City Corporation

Heber City Corporation

Francis Town Corporation

State of Utah Parks and Recreation

Jordanella Special District (Not on list)

The next meeting to be held with Lee Sim's of the State Engineer's office. When and where to be decided by Commissioner Roberts and Lee Sims.

*Note to Committee Members: This is a draft. Please add your comments and suggestions and I will incorporate it in a final document. I may have missed your input and I may have added some of my own that I did not express at the meeting. ROB*