

HOUSE SELECT COMMITTEE ON WATER

February 28, 1979

The meeting was called to order by Chairman Day at 12:30 p.m. with all members present except Representatives Hand, Nathe, Ramirez, and Hershel Robbins.

The purpose of the meeting today was to get input from the Indian tribes on their reaction to the proposed amendment to Senate Bill No. 76, to provide authority to enter into compacts with Indian tribes and the federal government concerning reserved water rights. (amendment attached)

These amendments were drafted by the subcommittee appointed by Chairman Day after the last Indian meeting. Members of that committee were: John Scully, Jack Ramirez, and Daniel Kemmis.

REPRESENTATIVE SCULLY began by explaining how they had arrived at the proposal. The proposed amendment would include all federal and Indian interests in the petition required in section 21 under authority granted the state by 43 U.S.C. 666. However, it is also intended that the state proceed under the provision of this section to conclude compacts for the equitable division and apportionment of waters between the state and its people and the several federal interests and Indian tribes claiming reserved water rights within the state.

All activities to adjudicate federal and Indian water rights under this act are suspended for a period of three years while negotiations for the conclusion of a compact are being pursued. If three years are not enough time it could be suspended and more time given, but we feel this will get us going on it.

TOM WHITFORD, MITPB, stated that he had distributed the proposed amendment to all the Indian tribes prior to the meeting today. Five of the tribes were in attendance. We have not had enough time to go through the state's proposal. We have only had a few meetings. The feelings that we have received have not been good. This amendment still leaves the Indian tribes in the bill and after three years, if an agreement has not been made, we can still end up in court. We felt, in our proposal, that we were taking the interest of the state, but your proposal does not give us that same consideration. At this time I will let the tribal councilmen from the other tribes voice their opinions.

BOB GERVAIS, Blackfeet Tribe, stated that their meeting was not until tomorrow, at that time he would be able to present the proposal to the entire tribal council. He stated that he had spoken to some of the tribal council members but would not be able to speak for the council until after the meeting. From those that he had spoken to they did not like the proposal.

RANDY PEREZ, Fort Belknap Tribe, stated that their council meeting was not until March 5. "My feelings are that they will not like being included under the authority granted the state by 43 U.S.C. 666." At our council meeting we will discuss your proposal and send back a counter proposal.

RUBIE SOOKTIS, Northern Chyenne Tribe, stated that they had not had their tribal council meeting yet but would have it tomorrow. "We may have another amendment to propose, also."

PETE LAMERE, Chippewa Cree Tribe, stated that their tribal council meeting was tomorrow and they would consider the proposal at that time.

BILL MORIGEAU, Flathead Tribe, stated that they have meetings every two weeks. On Friday they will have another meeting. They have not discussed the amendments proposed fully, but will discuss them at the next meeting. "This is not something that you decide in one short meeting."

Their major source of income is timber. They have hundreds of streams that flow through this forest land. While cutting this timber they are very protective of these streams. "We feel that under Senate Bill No. 76 we would be protecting these streams for the state instead of for us."

"The cities lease water from us for their city water. In making water reservations it will have to work all ways."

CHAIRMAN DAY requested that the tribes send a written comment back to the committee with their proposal or reaction to the proposed amendment after they have their meetings. At this time Chairman Day had to leave and Representative Scully assumed the chair.

MR. WHITFORD stated that they have a water committee sent up of tribal members from the various tribes to work with the legislative committee and work out some form of a proposal. These members are working together to work out something that would be best for the tribes. "We have drafted an amendment that, as a group, we all agreed on."
(amendment attached)

EVELYN STEVENSON, Flathead Tribal Attorney, stated that the state proposed amendments do not exclude them from the bill. It gives them only three years to decide what they are going to do. "We thought, from our meetings here, that we would be taken out of the bill, and our tribal treaties would be honored. We are very disappointed in the state's proposal."

REPRESENTATIVE SCULLY stated that we have to have some mechanism to assure that, if you are not included in the bill, that you will continue to work on a compact. "We would like to have you in the bill, but exempt so a compact can be agreed upon during the interim."

TED MEREDITH, Field Sol., S.S.D.I., asked why they had to be included at this time. "We don't understand why we have to settle this session when there are many sessions yet to come."

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REPRESENTATIVE SCULLY commented that Montana is so far behind in adjudication of their water that something has to be done before congress determines it unused water and allocates it to someone else. What good is it to reserve the water if we are letting it go down stream to be used by a more beneficial use. "We think it would be better to determine how much excess there is within the state instead of having the federal government decide for us under their water policies."

TED MEREDITH stated that they do not belong in this bill. "We don't know what we have anymore, what to do with it, or what we have a right to." All these problems will have to be worked out first.

JIM SANSAVER, Dept. of Interior, Washington, D.C., stated that the tribes and their trustees do not have any authority over the water. "If we are not excluded from the bill what assurance do we have that you will be interested in the compact? We were under the understanding that you would exclude us from the bill if we would agree to work on a compact during the interim. We were quite surprised with the proposal, leaving us in the bill."

The tribes do not always agree with the board of trustees. "I would be glad to work with Mr. Scully on a proposed amendment, but it would still have to be agreed on by the tribes before a final decision was made."

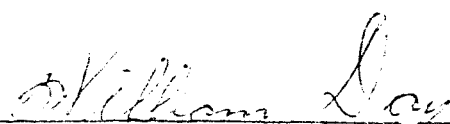
BOB GERVAIS stated that each tribe has a different interest. "In our case we are at the headwaters and we have most of our water studies complete, but other tribes do not."

After our meeting we will send a letter to the committee with our opinions on the two proposed amendments.

The next meeting with the Indian tribes will be on March 12, 1979 at 12:30 p.m.

REPRESENTATIVE SCULLY concluded by stating that we would try to come to a mutual agreement. "If Senate Bill No. 76 should fail I would try to suspend the rules and have an interim committee set up to work out some form of a compact with you, if you would agree to that."

The meeting was adjourned at 1:55 p.m.



William M. Day, Chairman

Judy J. Mook, Secretary