

MINUTES OF THE MEETING OF THE WATER COMMITTEE
January 15, 1981

The Water Committee convened on Thursday, January 15, 1981, in Room 436 with Chairman Audrey Roth presiding.

Roll call was taken with Rep. Curtiss excused and Rep. Huennekens arriving later.

The meeting was called mostly as an informative meeting for the committee.

Chairman Roth introduced Judge W. W. Lessley, Chief Water Judge for the Adjudication, who spoke on water adjudication.

JUDGE LESSLEY called the committee's attention to SB 76 which turned adjudication of water rights over to the courts rather than under the use act of 1973 in the department. The department was to aid the courts in the process and the courts were to facilitate the act. At present \$244,000 has been collected in fees. Claims are considerably less. Workshops are being held to inform those involved. The Powder River Basin was the first to be started, about seven years ago. In November, LeAnne Stroudner was named Water Master for the Upper Missouri, the only one appointed thus far.

Judge Lessley announced that by the end of April, 1981, the preliminary decree will be completed for the Powder River Basin.

He named the other Water Judges as follows: Judge Shanstrom has the Yellowstone, Judge Thomas has the Lower Missouri and Judge Holter has the Clark Fork.

After notices are sent out, people will be given an opportunity to ask about the adjudication. They will have their water rights officially approved, if they file. The Judge was told by Ted Doney, former Director of the Department of Natural Resources, that it would take 50 years to adjudicate the water, but he feels that is not going to be the case.

QUESTIONS:

REP. BRIGGS, of Beaverhead County, has many requests for an extension and asked if extensions will be granted.

The Judge hopes that an extension is not given, but would like to complete the project on schedule.

Another question from Briggs was asking if seminars will be held in all the areas. The answer was affirmative.

REP. ASAY asked why people should spend \$40 to register when they already have water rights. The Judge said their records

must be approved once and for all by the water courts. The 1976 decree is the final adjudication.

REP. CONROY of Hardin asked how many have failed to file. The Judge said the number was astronomical.

REP. THOFT of Stevensville asked if there is any right of appeal if the water right is not filed by the deadline. The Judge thought it was possible, but urged filing at the proper time. He mentioned the adjudication of the Burnt Fork of the Bitterroot in 1978 and wanted to know about flood water. The Judge reiterated that filing was the answer to the water rights problem.


REP. CONROY asked about Indian tribes water rights, and the Judge said he wasn't aware of any problems. Conroy then asked about irrigation districts. The Judge said he has taken the stand that whoever files the claim has control of the water. He feels that he would like to facilitate the filing, but that in many cases, users should file individually. Rep. Conroy asked for information on the application and was told about the form. Rep. Asay asked if the water rights were for home use. The Judge said you don't have to file for home use. However, he feels to protect yourself, you should file on all wells that you have.

REP. ASAY asked about Wyoming threatening to use water from the Little Horn. The Judge said "yes," we are protected, but it is difficult to argue a case such as this.

ERVING GYSLER, from Seely Lake, who was a constitutional delegate, explained that the Constitution of 1972 guarantees all existing rights of water, all adjudicated and non-adjudicated rights, including the water rights for which notice of appropriation has been filed and rights for use for which no filing is on record. In Article 9, Section 3 Water Rights, it states: "All existing rights for the use of any water for any useful or beneficial purpose are hereby recognized and confirmed."

He has no objection to adjudication, but feels that adjudication and filing of claims are totally different.

The meeting adjourned at 3:00 p.m.



AUDREY ROTH, Chairman

Date Jan. 14, 1980

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.