

Citizen Trade Policy Commission

October 30, 2009

Transportation Committee Room, Augusta

9:00 AM

Meeting Summary

Members present: Sen. Troy Jackson, Rep. Margaret Rotundo, Sen. Gerzofsky, Sen. Roger Sherman, Rep. Jeffery Gifford, Rep. Sharon Treat, Cynthia Phinney, Wade Merritt, Michael Hiltz, Carla Dickstein, Paul Volckhausen, and John Palmer.

Water Resource Planning Committee members present: Robert Marvinney, Andrews Tolman, Thomas Brennan, Barry Sandford, Timothy Hobbs, Jeff McNelly, Marcia Spencer-Famous

Guest: William Waren (Forum on Democracy and Trade)

Staff present: Curtis Bentley, Legislative Analyst

- 1. CTPC/WRPC groundwater meeting:** William Waren (Forum on Democracy and Trade) presented the first draft of the final report on Water Policy and International Trade law. Bob Marvinney stressed that this report is only part of the final report that will be issued by WRPC. Mr. Waren discussed relevant international case law and explained why some statements or conclusions in this report differ from other articles written on the subject. Mr. Waren felt that Scott Slater's article *State Water Resource Administration in the Free Trade Agreement Era: as Strong as Ever* was overly optimistic about the parallel between U.S. constitutional law and trade agreement provisions. Mr. Waren pointed out that it is not just an issue with substantive rules or obligations under trade agreements but also a structural issue regarding the tribunals where cases are tried. Tribunal arbiters are often international commercial specialists and may be appointed to the tribunal for one or two cases after which that person may represent parties that were once before that arbiter raising a conflict of interest concern. Additionally, tribunals are not bound by the decisions of prior tribunals and tribunals will often try to provide equity in a given case causing decisions to be scattered all over the board. Trade agreements and how a tribunal may interpret it in light of a particular fact pattern is unclear, complex and uncertain.

Bob Marvinney stated that the WRPC needed to review the testimony from the public hearing and the AG's groundwater analysis from a state law point of view for the next meeting.

- 2. CTPC Annual report** the commission reviewed a draft of the final annual report and voted 10-0 to accept the report with a minor addition suggested by Rep. Treat regarding the commission's activities at meetings of the National Conference of State Legislators.

- 3. Dana Eidsness, new Policy Director, Forum on Democracy and Trade** Dana Eidsness joined the meeting by conference call. Ms. Eidsness briefed the commission on her background and interest in joining the Forum. She also presented her ideas for the direction of the Forum and hoped the Forum and the CTPC could continue to work together as in the past. Ms. Eidsness would like to see the continuation of regional meetings and possibly a meeting in Washington DC with USTR and state trade commissions. Ms. Eidsness is also exploring the possibility of “webinars” to get and disseminate trade related information among states.
- 4. State procurement:** Rep. Rotundo briefed the commission on possible discussions between the U.S. and Canada about removing the “buy American” provision in the stimulus bill in exchange for more open markets in Canada. Canada claims no such deal was imminent.
- 5. MOU between New Brunswick and Quebec provinces regarding the cooperation in the energy sector.** Sen. Sherman provided a copy of the MOU to the commission and the commission agreed to make a copy available to the Energy Commission to consider before the Energy Commission’s next meeting.
- 6. Next meeting/agenda:** The commission agreed to invite the Governor’s trade person to all commission meetings to or at least make sure that person is aware commission meetings. The commission directed staff to review LRs and LDs for the next legislative session and report back to the commission on any LRs or bills that may deal with or be impacted by international trade agreements. Rep. Treat would like to put health/prescription drugs on the December meeting agenda. Wade Merritt stated that Janine Bisailon-Cary (President and State Director of International Trade, MITC) would like to give a presentation to the commission sometime in January.
- 7. Adjournment:** The meeting adjourned at approximately 11:45AM.