

1 Feb., 1980

## MEMORANDUM

TO: P.M. Wright  
 FROM: D. Foley  
 RE: Roadblocks to User Coupled Drilling

It is becoming evident that a variety of non-reservoir Confirmation roadblocks may be present in the various states which will participate in the user coupled drilling program. I have identified one of these, a second has been suggested by Dennis Trexler, and we should probably contact state resource and planning teams to see where more exist, and how they could be removed.

The roadblock that I have identified is in Utah, where UP&L's holding of the water rights applications for 1700 square miles may mean that, unless a loophole is found, they could tie up and prevent any development on these lands. Water rights in Utah are designated by the time of application for appropriation, rather than by the actual appropriation and use of the water. This means that UP&E, with their 1974 (?) applications, does not have to lease the surface land in these areas (which they have not), nor do they have to show any motion towards development for 14 years (which they have not). After 14 years, all they have to do is file for an extension; these are routinely granted. Clay Parr said that in negotiations over the Roosevelt system, UP&L stated that if they could not reach an agreement with the production ~~partners~~ <sup>over the price of electricity</sup> partners, that they nevertheless would not release their claims to the water. If UP&L is willing to go to court to, in essence, force <sup>(never split an infinitive)</sup> either an agreement with or a shut down of Phillips et al., they certainly will be willing to stomp

all over small time, direct heat users. We must remember that any  
use of alternative energy is probably seen by their board of directors  
(UP&L's)  
as removing yet one more market for electricity, and therefore not  
in the best interests of the company.

The problem that Dennis Trexler has pointed out is that where  
a state resource assessment agency is a regulatory agency, the willingness  
of the private sector to cooperate is dramatically reduced. The only  
case I can think of at present is in Idaho, with Mitchell et al. Debbie  
confirms from her experience that she has found users unwilling to  
cooperate with John. So we are left looking for non-regulatory agencies  
that are part of state government, to participate in this program.

All of which leaves us having, I feel, to mount not only the  
campaign that we have been working on this week to explain the  
program to the resource teams, but also having to contact all the  
resource and planning teams, as well as NCSL, to try to identify  
legal barriers asap.. In many of the states, the legislature only holds  
meetings every other year, so if laws are to be written or ammended  
we need to identify those needs now.

Comments?

d.

DF:sob

cc:dws