

Lifting of ban on water exporting backed

HELENA (AP) — A legislative study committee Monday adopted a final report and recommended legislation authorizing private government-regulated water sale and state leasing of Montana water. The committee also recommended the state should do with any proceeds from water leasing.

Legislation approved by the Select Committee on Water Marketing would permit private sale of water, set up a new permit system for large appropriations or releases of water, authorize using water for export transportation of coal slurry, and set up a permit system to regulate water use for irrigation.

The committee's report recommends a strategy for future water policy development in Montana in the context of interstate needs and conflicts.

In a letter transmitting the report to the 1985 Legislature, which convenes Jan. 7, committee chairman Sen. Sam Toranzo, R-Pelton, called water marketing the most important natural resource issue facing Montana lawmakers. And he said the 1983 Legislature was to consider the committee's study which the committee has conducted for the past 18 months.

He said the study was facilitated by a "current market study."

"When initially proposed to the Legislature, the water marketing concept diverted attention away from the more important issue which should be Montana's water policy in an interstate setting," he said.

Toranzo said that while interest in the water marketing concept continues to grow, no regional water market has developed.

"It is clear there has been no serious interest in the purchase of water from Fort Peck, where it has been available, and that a much advanced billion-dollar sale of water by South Dakota from its Oahe Reservoir has fallen through."

Yet, Toranzo said, the issues surrounding water development are important and

complex and will need additional years of strategic development.

Under the committee's proposed water marketing legislation, appropriations for interstate or interstate movement of water up to 4,000 acre-feet and 3.5 cubic feet per second would require a permit issued by the Department of Natural Resources and Conservation.

An acre-foot of water is an amount covering one acre of land one foot deep.

In considering permits, the department would have to determine if the water is needed for reasonable use in the public interest. It also would have to consider existing demands on the state water supply, the benefits to the applicant and the state, the effects on water quality and private property rights, and the environmental impacts of the project.

The committee decided to relieve the department of its current duty to determine whether a proposed water-use project is economically feasible.

Rep. Daniel Korman, D-Missoula, a committee member, said economic feasibility is a function of the marketplace, not the government.

The proposed "4,000 acre-foot and 3.5 cubic feet per second" threshold for a permit is considerably less than the current "15,000 acre-foot or 15 cubic feet per second" requiring a state water permit.

Gary Fritz, head of the state Water Resources Division, said the lower threshold would "cut" small, costly operations, small coal-fired power plants, many hydroelectric plants and forest agricultural uses.

The proposed legislation also authorizes the department to appropriate or allocate water for the state up to 50,000 acre-foot for water leasing.

In considering leases, the department would have to review the public-interest criteria, findings of environmental impact studies, and whether there is sufficient water in the leasing program.

The committee's staff proposed 16 provisions for any money the state might obtain from leasing water, but the committee decided not to include any language in its legislation specifying use of the proceeds.

Instead, the committee will merely include the option in its report.

Toranzo said individual legislators are certain to propose specific uses during the 1985 session. If not, the money would go to the state general fund.

Committee members said it would be nearly impossible to get the money back out of the general fund for water programs if it becomes part of the account for financing general government operations.

James Van, R-Bozeman, however, strongly advocated that the legislation set aside money that only leasing proceeds would have full appropriation. Van, then House Speaker, said that the money from the proceeds should be earmarked for water programs because that would increase political support for the legislation among state water users.

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Lynda Walker leaves the witness stand during her sentencing hearing Monday. She took the stand to explain some details to the judge before sentencing.

Canadian admits tap on phones

YAKIMA (AP) — A Canadian oil scout pleaded guilty Monday to conspiring with Shell Oil Co. to obtain phone conversations regarding a Montana drilling site, and the scout agreed to cooperate with authorities investigating the case.

Drew Thomas Adams, 58, of Truich, Alberta, pleaded guilty in U.S. District Court in Yakima to unlawful interception of wire communications, in exchange for the government's agreement to drop three related charges.

Under the agreement, Adams will testify at any grand jury hearing or trial related to the wiretapping of Shell Oil lines in Washington. He has also agreed to take polygraph tests.

In releasing Adams, Assistant U.S. Attorney Jim Flynn said the government will recommend that Adams be sentenced to 18 months in a federal prison. Maximum sentence for unlawful interception of wire communications is five years in prison and a \$10,000 fine.

Adams had been charged with tapping conversations between Shell officials in Montana and company offices in Houston and Wyoming. Adams said Judge Justice L. Quisenberry that he had been involved in the espionage activities for at least five months.

He was arrested in early September by FBI agents near Montana when he approached a telephone junction box where tapping devices had been discovered.

In an affidavit filed after he was arrested, authorities said Adams told them he monitored the conversations from his car using a portable receiver and disclosed what he heard to an unidentified man in Calgary, Alberta.

The wiretapping was uncovered in July when a United Telephone Company worker discovered wires connected to two unlisted Shell telephone lines linked to the drilling site.

Shell and the Atlantic Refining Co. recently capped the well after drilling to a depth of 17,245 feet. Neither company has released specific data about what they found, but both said they failed to find oil or gas in commercial quantities.

A court order prohibits any of the parties involved from discussing specifics of the case, and officials have refused to say exactly who they believe Adams was working for when he was arrested.

Adams remained free on \$100,000 bond pending sentencing.

Woman gets term in slaying of roommate

By RICHARD WAGONER

Lynda J. Walker was sentenced Monday to three years in prison for the July 13 slaying of her roommate.

Walker, 43, had pleaded guilty to Spokane County Superior Court to first-degree manslaughter in the death of Maria L. Pettengill, 46.

Pettengill was shot during an argument at their Spokane home.

"I must be honest with you," Judge John Lally told Walker. "There is no basis in law or morality for you to shoot her."

"Well, you would have had to have been there, your honor," Walker said.

Walker contended she had acted in self-defense. She said Pettengill initiated the attack that led to the shooting.

"It was in fact my life," she said.

Walker had planned to move out of their home. The two began a "violent argument" when she learned Pettengill had withdrawn a large amount from a bank account they shared, defense attorney Dennis Scott said.

Because of the situation, and her lack of criminal record, Scott asked Lally to sentence Walker to a work-release facility where she could perform volunteer service with the Salvation Army.

Scott said the shooting was the result of a domestic dispute that won't happen again.

"The risk of recurrence is nil," the attorney said. "Reconciliation of the defendant with my respect upon her anything that hasn't already been improved upon."

However, Lally said there "just isn't any justification for the shooting. Any way you slice it, there was no good reason for the shooting."

The three-year sentence is within the standard improvement range for manslaughter under the state's new sentencing guidelines. Law. The sentence can be reduced as much as one-third for good behavior.

Scott asked Lally to find mitigating circumstances that would have allowed the judge to sentence Walker to terms below the standard range. Lally refused.

Walker, who has been free on bond since pleading guilty, was ordered jailed immediately.

The originally was charged with second-degree murder, but that was reduced to manslaughter as part of a plea bargain.

Committee vows civil disobedience

By THERESA GOFFREDO

The idea for the pledge of resistance arose last year when Wisconsin Rep. Bruce A. Wilson, a group protesting non-violence, began its national movement to oppose U.S. involvement in Central America.

"If there is a U.S. invasion of Central America, or any other U.S. military intervention in any other country, we will resist," the pledge reads.

The pledge of resistance was drafted by Wisconsin Rep. Bruce A. Wilson, a Democrat who lives in St. Albans, Vermont.

"Foley and those guys are the writers — the ones with the power to stop the government from breaking the law," he said Monday.

"How many ways have we broken the law?" he asked. "It's out of control. We're doing it all the time."

Wilson said the government has violated President Reagan's 1981 executive order that says that "no person employed by or acting on behalf of the U.S. Government shall engage in or conspire to engage in assassination."

The Pledge of Resistance Committee, he said, hopes that non-violence protest will help persuade the U.S. government to stop backing the "corrupt" forces trying to overthrow the government in Nicaragua. The committee also calls for ending U.S. military aid to El Salvador.

The civil disobedience plan was unveiled this week in 300 cities across the nation, including seven in Washington, Colgan said.

The testimony of a witness in the Lewister murder case was constantly interrupted Monday by his attorney, who sought Fifth Amendment protection for his client because he says the man has psychiatric ailments he was unable to earlier testimony.

Billie Polinsky appeared as part of a hearing for John Kenneth Peil of Bellingham, Wash., who has been charged with killing eight people aboard the private motor liner in Craig, Alaska, in 1982. After the killings, the boat was set afire.

Polinsky and Dawn Polinsky, Bellingham residents, who served as co-defendants with Peil aboard the fishing vessel, Peil in 1982, jury that indicted Peil in September.

Their attorney, John Thompson, said in court testimony that both witnesses had reviewed their grand jury testimony and now have doubts about some statements they made. If their statements in the current hearing differ from their grand jury testimony, the two could be charged with perjury. Therefore, Thompson said, his clients would seek protection under the Fifth Amendment, which states people can't be compelled to be witnesses against themselves.

Peil's lawyers seek immunity from perjury prosecution for Polinsky and Peil. Holstrom believes they want the two to substantiate charges that witnesses were intimidated prior to the grand jury proceedings.

Peil's attorney, Robert Paul O'Neil, said that Polinsky was taken from his hotel room early the morning of the day he testified before the grand jury, shown photographs of the remains of the Lewister victims and threatened about his testimony.

Witnesses pressed Polinsky on the intimidation charges Monday, but Thompson stopped most of the questions. Polinsky was later indicted before the grand jury.

Peil is accused of killing Blaine, Wash. resident Mark O'Neil's son, and his wife, both 28; their daughter, Kimberly, 19; and their son, John, 4; crewman Dean Moss and Jerome Reeves, both 19; Blaine, Wash. resident crewman Michael Stewart, 19; Bellingham, Wash. resident crewman Chris Hyman, 18; San Rafael, Calif., resident crewman

\$250,000 awarded to couple injured in truck crash

By RICHARD WAGONER

Itsville, Calif.

Botha was a long-haul truck driver for Peter Pan Frigate Co. in Spokane, when the accident occurred.

The jury found Frigate was negligent for producing a defective truck.

The verdict, handed down late Saturday night after four weeks of trial, gives \$225,000 to Frank Botha and \$25,000 to his wife. The jury also awarded \$71,713 to Peter Pan Frigate for loss of the truck.

Botha testified he was driving 30 to 40 mph when he was in the steering wheel vanished. The truck veered out of control and struck a desert embankment, flipping the tractor over on its side.

Botha was pinned under the truck about three hours. He suffered multiple injuries.

Mr. Botha injured her left hand and lower back.

Both victims said they are permanently disabled.

Plaintiff attorneys Andrew Smythe and John Layman blamed the accident on steering failure that occurred when a drag-link separated, severing the link between the steering wheel and the front steering mechanism.

The drag-link assembly was the cause of the accident, according to testimony by Frigate's attorney, who said a part regularly maintained by repairmen, the attorneys said.

The jury began its deliberations about 10 p.m. Friday.

Botha, who no longer can drive a truck, now works in Peter Pan's Spokane office.

Smythe said litigation is pending in other Frigate-related accidents involving alleged defective steering mechanisms.

Attorney interrupts murder case witness

KETCHIKAN, Alaska (AP) — Amendment, which states people can't be compelled to be witnesses against themselves.

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