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SENATOR ELMER: They may have, and I think that that connection would have to be established by some means. Each well has a different circumstance and each one would have a varying degree of impact, very, very difficult because each well then would have to be looked at, would have to be hydrologically analyzed and adjudicated by the Department of Water Resources in that type of a situation, very, very difficult.

SPEAKER BAACK: Thank you, Senator Elmer. Senator Wickersham.

SENATOR WICKERSHAM: Thank you, Mr. Speaker. Senator Beutler, if you could respond. Senator Beutler, I know you've been asked before, but I want to follow up on the issue that was raised concerning the process that you'd go through to obtain a permit if the bill is amended as you are now suggesting and striking out the language that really provides for the expressed findings concerning instream and groundwater relationships. I think you have indicated that if you applied...the municipality applied, they would have the burden of showing that there was some connection between their well and the surface water, the stream flow. Is that correct? Okay, and that is based, I think on the fact that you are characterizing their appropriation as an instream use. Is that correct? Okay. But there is nothing expressly in the statute that would place that burden on them. Is that correct?

SENATOR BEUTLER: There is nothing in the new language, Senator, but I think...and I will have to look back, certainly established practice as you know, we put the burden on them and I would have to look back and see if there is a general provision that would apply.

SENATOR WICKERSHAM: Okay, because I thought that was one of the, quite frankly, in the language that you're now seeking to strike, I thought that was one of the desirable provisions, particularly in the latter section where they expressly were given the burden of proving that connection before the application would be granted. I'm wondering if that, at least that portion of the language is still not appropriate rather than doing it by implication, but I understand that you now wish to strike that and perhaps when we come back with other amendments that can be reintroduced as a specific allocation of that burden.

SENATOR BEUTLER: If, on review, you think that that is