

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on February 1, 2001 in Room 231-N of the Capitol.

All members were present except: Representative Clay Aurand - excused
 Representative Dennis McKinney - excused

Committee staff present: Emalene Correll, Kansas Legislative Research Department
 Raney Gilliland, Kansas Legislative Research Department
 Mary Torrence, Revisor of Statute's Office
 Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Terry Duvall, Kansas Water Office 901 S. Kansas Avenue,
 Topeka, KS 66612-1249
 Donna Denton, RR2 Box 168, Alma, KS 66401
 Tracy Streeter, Exec. Director, Conservation Commission, 109
 SW 9th, Ste 500, Topeka, KS 66612-1299
 Representative Tom Sloan, District 45

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She announced that the Kansas Water Office will be presenting an overview on the Corps of Engineers use of Kansas Reservoirs and other drought issues.

Terry Duvall, Kansas Water Office, was welcomed to the committee. She is the manager of the Public Water Supply Unit, KWO and introduced two other staff members, Earl Lewis, Engineer, and Cathy Tucker-Vogel, Environmental Scientist. They were requested to brief the committee on the events of the past summer as they relate to the Kansas River Basin. With the creation of the State Water Marketing Program in the early 1970's, the Kansas Water Office was authorized to contract with the Corps of Engineers for municipal and industrial water supply storage space in federal lakes. In the Kansas Basin, contracts were signed and approved for 300,000 acre-feet of space (entire conservation pool) in Milford, and 150,000 acre-feet of space (the entire conservation pool) in Perry. These contracts allow the state to call this storage space into service incrementally, as the need for the water supply develops over time. Once the state calls an increment into service, they are required to begin making payment for both the construction costs of the storage, and a proportionate share of the operation and maintenance costs on each new increment. In the meantime, the Corps reserves the right to use the remaining storage for other authorized purposes. (See attachment 1)

Earl Lewis, Engineer, KWO, was welcomed to the committee. His discussion was in regard to the Corps of Engineers decision of this past summer to use Milford, Tuttle Creek and Perry lakes for navigation support on the Missouri River. The State of Kansas, led by Governor Graves and represented by Assistant Attorney General John Cassidy filed suit over this issue and won a temporary restraining order. The temporary restraining order remained in place until the State of Kansas dismissed the case on November 22, 2000. The main reason the State decided to dismiss the case is that the Corps of Engineers has agreed to complete a hydrologic computer model of the Kansas River and tributaries. General Carl Strock, the commanding officer for the Northwest Division, which includes the Kansas and Missouri River basins, has also agreed that the State of Kansas will be allowed to cooperate in this effort. While the cooperation on the modeling effort is a major step forward, it does not prohibit the same decision from being made in the future. In order to permanently stop navigation releases, the State of Kansas would need to call into service the remaining storage under contract, or show through the modeling effort that the harm caused by the release is greater than the benefit derived downstream. This same cost/benefit decision could be made within a lawsuit, but believes it is better done through the cooperative modeling effort. (See attachment 1)

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Kathy Tucker-Vogel, Environmental Scientist, KWO, was welcomed to the committee. She briefed the committee on an issue related to Kansas River Operations, the Missouri River Biological Opinion. The Biological Opinion was prepared by the U.S. Fish and Wildlife Service for the Corps of Engineers as part of the Missouri River Master Manual Review. The Kansas Water Office is coordinating with the Kansas Department of Agriculture, Division of Water Resources; Kansas Department of Wildlife and Parks; the Corps of Engineers and the Missouri River Basin Association on implementation plans associated with the Biological Opinion. They are also working with the Attorney General's Office to determine the best course of action related to operations on the Kansas River. Kansas Water Office Assistant Director, Clark Duffy and Cathy Tucker-Vogel will be meeting with the Kansas Congressional Delegation staff members on February 15 and 16, 2001. They plan to discuss their concerns related to the Biological Opinion and the potential impacts that may occur. They will encourage them to include funding from the federal budget for implementation measures on the Kansas River. (See attachment 1) Committee questions and discussion followed.

Chairperson Freeborn thanked the Kansas Water Office staff for their presentation. She opened the hearing on **HB 2133**.

HB 2133: **An act amending the multipurpose small lakes program act.**

Terry Duvall, Kansas Water Office, was welcomed to the committee. She testified in support of the bill. (See attachment 2) The Multipurpose Small Lakes Program was established in 1985 and is administered by the State Conservation Commission. The program was designed to allow for the addition of public water supply storage space and/or recreation benefits to proposed watershed projects. Following a review and study of the program and its operating policies by the KWO, the Kansas Water Authority, in 1998 established a moratorium on consideration of new projects until problems and issues identified by the study were addressed. These changes have been made with the exception of those changes proposed in this legislation. In order to lift the moratorium imposed by the Kansas Water Authority, and to ensure the efficient and proper utilization of the program, the Kansas Water Authority has authorized the KWO to submit this legislation during the 2001 Session of the Kansas Legislature to address these issues. These changes are embodied in this bill.

Donna Denton, resident of Lake Wabaunsee, was welcomed. She represented a number of residents of the lake and testified in support of the bill. Lake Wabaunsee is located 45 minutes southwest of Topeka in the Kansas Flint Hills, the lake provides recreation for the public such as boating, fishing, camping and has a swimming area. It is owned by the City of Eskridge and does not have flood control. Near by residents feel that the lake and its water supply are at risk because of the silting that has been going on for over 50 years. They feel this legislation would restore flood control, provide lake dredging, and/or drinking water storage capacity. (See attachment 3)

Tracy Streeter, Executive Director, State Conservation Commission, was welcomed to the committee. He testified in support of the bill and offered amendments. He believes the bill as amended, if passed, will enable the Multipurpose Small Lakes Program to assist local public entities in the renovation of existing water supply and recreation lakes. The bill will modify the MPSLP Act by addressing three issues: (1) rules and regulation authority for the Kansas Water office, (2) eligibility requirements for renovation projects, and (3) maximum cost-share levels for renovation projects. The first provides the Kansas Water Office with the authority to develop rules and regulations for the portion of the Act for which they are responsible. The second issue relative to renovation project eligibility, allows flood control to be an optional feature for renovation projects. The third issue relates to the cost-share percentage allowed for water supply renovation. (See attachment 4) Questions and discussion followed.

The Chairperson closed the hearing on **HB2133** and opened hearing on **HB2044**.

HB2044: **An act concerning the multipurpose small lakes program.**

The Chair recognized Representative Tom Sloan. He addressed the committee in support of the bill. The State Conservation Commission and State Water Office have funds available to construct new multi-purpose lakes, but cannot expend monies to preserve the ones in which we have already invested. During the 2000 Legislative session,

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the House and Senate passed bills on this subject, but were unable to reach consensus. **HB2044** and **HB2133** are similar bills. Both will provide the authority to assist communities to renovate and thereby preserve existing multi-purpose lakes. They differ in how recreational features at those lakes will be treated. During the 2000 session, many members of this committee believed it was more appropriate to focus on drinking water storage and flood control with our scarce resources. Others believed that recreation is an integral part of the multi-purpose small lakes program and thereby should be addressed in any renovation legislation. Representative Sloan supports both bills and believes we can resolve the recreation issues as the committee members wish, so long as we recognize and address the core provision of both bills, renovating and preserving our existing drinking water supply lakes. (See attachment 5)

Chairperson Freeborn closed the hearing on **HB2044**. She reviewed the agenda for next week, committee meetings for Tuesday, February 6 and Thursday, February 8.

The meeting adjourned at 5:00 p.m. The next meeting is scheduled for Tuesday, February 6, 2001.