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M I N U T E S

SPECIAL COMMITTEE ON FORESTRY, FISH AND GAME COMMISSION

October 4 and 5, 1976
Topeka, Kansas

Members Present

- Representative R.E. Arbuthnot, Chairman
- Senator Richard Williams, Vice-Chairman
- Representative James Cubit
- Representative James Holderman
- Representative Herbert Rogg

Staff Present

- Robert Haley, Kansas Legislative Research Department
- Donald L. Jacka, Jr., Kansas Legislative Research Department
- John Rowe, Kansas Legislative Research Department
- Don Hayward, Revisor of Statutes Office

Conferees and Guests Present

See Attachment I

October 4, 1976

Chairman Arbuthnot convened the meeting and welcomed those present. He expressed his appreciation for the attendance of the Corps of Engineer representatives from the Tulsa and Kansas City Districts. Chairman Arbuthnot explained it was the Committee's desire to improve general communication and relationships between the Corps and the Forestry, Fish and Game Commission.

Mr. E.A. Sousa, Chief of Management, Administration, and Disposal Division, Real Estate Department, Tulsa District, U.S. Corps of Engineers, presented a brief summary of activities. He stated that state licensure of Corps lands, sharecropping procedures, and grazing policies are taken from Section 4 of the Federal Flood Control Act 10-USC-2667 and 33-USC-701C-3. He explained that land managed by the Corps under agricultural leases produce cash rental payments, 75 percent of such payments are returned by the federal government through the states to the counties from which payments are made. The Corps may not enter into sharecrop leases, but is required to receive fair market value for all agricultural production.

When land is licensed to a state, the Corps assumes that both the legislative and executive branches feel such licenses are in the best interest of the people and will support the license provisions. It is also assumed that the Commission has sufficient authority and resources to manage the land. Generally, the amount of land to be offered for license to states is outlined within the Corps regional master plans. As master plans are developed, states are asked to estimate the amount of land they wish to control for wildlife enhancement.

Mr. Sousa noted that the Corps of Engineers acquires land primarily for flood control and intends to only purchase sufficient land to meet that need. The Corps is authorized certain secondary uses of such land which include the conservation of wildlife. It is under this secondary use authorization that land is licensed to states. Such secondary use must be determined to be compatible with the primary flood control objectives of the Corps projects.

One provision of the licenses allows states to lease licensed land to farmers under sharecrop agreements. This is to serve the needs of conservation and to provide crops for wildlife feed and forage. Currently, Corps licenses do not authorize agricultural leases that generate cash rent payments. If surplus feed grain is produced, such surplus may be converted to cash to hedge against future years of non production. Such cash receipts must either be used within five years or be returned to the Corps of Engineers.

States are not authorized to enter into grazing leases with farmers on licensed lands, but may recommend that the Corps issue annual grazing leases on specific parcels. The Corps indicated that they honor such recommendations and establish such leases when grazing is an appropriate land management technique.

As noted in previous Committee meetings, problems exist with the leasing arrangements authorized by the Corps. As explained by the representatives from both Corps Districts, agricultural leases entered into by the Corps are only interim measures and are subject to the eventual establishment of approved projects such as licensing of land to the Forestry, Fish and Game Commission. Over the years, the duration and conditions of Corps agricultural leases have become more and more restrictive. For example, prior to 1956, the original owner of farm land was allowed to lease land back as long as it was available. After 1956, such land was leased on an annual basis during project construction with a concluding five-year lease following construction. In 1971 Public Law 91-646 limited all priority leases to one year, after which annual leases are at the discretion of the Corps. The co-existence of these variations in agricultural leases plus the further restrictive leasing policies of the Forestry, Fish and Game Commission creates confusion in the minds of the final lessee, the farmer. This confusion has manifested itself in frustration and dissatisfaction.

The Corps of Engineers representatives from the Kansas City District explained that in an effort to minimize this problem, the public meetings held to gain public acceptance of projects are used to explain the various conditions under which available land will be used for agricultural. It was the opinion of the Kansas City District that the leasing procedures were generally free of objection.

The Corps representatives were asked, if a lessee wished, could he transfer his lease obligation from the Forestry, Fish and Game Commission back to the Corps in order to lease on a cash basis. In response, it was established that this would not be possible.

Mr. Sousa presented the following points as to why the states cannot enter into agricultural cash leases:

1. The Corps is required to receive fair market value for production from leased lands. It would require either a change of federal law or a delegation of authority from the Secretary of the Army to allow states to have such leases.
2. The Flood Control Act of 1954 requires 75 percent of all lease receipts to be returned to the source counties. It would be in conflict with this law to allow such receipts to be used for fish and game purposes.
3. The U.S. Congress appropriates money for fish and game use, to allow states to establish agricultural leases for additional revenue would be an assumption of congressional power.

The Committee asked about the amount of money currently being returned to Kansas from Corps agricultural leases. These figures may be seen in Attachment II. It was noted that, while a significant amount is currently returned from the Kansas City District, most of the land now leased will eventually be under water. Both regions also noted that, in the long run, the new resource would generate more revenue in taxes than would be initially lost.

In response to questions concerning noxious weed problems, both Districts expressed their full support of the Kansas weed control program.

The Committee asked if the Corps ever said during land purchasing procedures that lands were being acquired for the Forestry, Fish and Game Commission. It was reported that such should never be the case. However, Mr. Sousa said the Corps does not distribute detailed literature describing the landowners rights nor the relationship of leasees to the Corps.

It was asked whether the Corps could use a sharecropping lease in conjunction with its agriculture leases. It was explained that the Corps is prohibited by regulation from entering into sharecropping leases. However, the Kansas City District has requested authority from the Chief Engineer of the U.S. Corps of Engineers to establish such leases on a trial basis.

It was noted by the Districts that there is a concern for the type and intensity of management provided by the Commission. The Corps desires law enforcement, trash pickup, vehicle control, etc., to be provided as well as wildlife management. The Committee's conclusion was that federal expectations for management of licensed land will increase, thus requiring greater commitment of Commission resources.

Mr. Andrew M. Finfrock, President of the Jayhawk Audubon Society, presented the views of his organization. He expressed opposition to the reorganization of the Commission into a Department of Natural Resources, supported the SASNAK program, and encouraged distribution of the magazine to fishing and hunting license holders. He also presented the following considerations for increased Commission funding. He recommended (1) a voluntary wildlife decal or tax return check off, (2) a state or federal excise tax on bird watching equipment, (3) increased fees, and (4) State General Fund support. He mentioned that the Society would like to see non-sports management of Commission lands increased.

Mr. Vic McLeran of the Forestry, Fish and Game Commission presented a review of the Information and Education Division. It was noted that the magazine is rated sixth in the nation among Fish and Game publications. Last year it was rated third. Mr. McLeran was questioned regarding the promotion of Kansas wildlife outside of the state. He felt that this would be a good area of promotion and indicated that some limited coordination had been done with Kansas Department of Economic Development. Mr. McLeran said that the Division was improving relations with the various media by sending out only timely and appropriate news releases.

Mr. Fred Warders, Acting Director of the Forestry, Fish and Game Commission, reviewed the law enforcement activities of the Commission. He noted that besides protection and patrol, law enforcement includes information and public relation work. It also cooperates with local public agencies in law enforcement. Currently there are 61 Game Protectors and ten supportive personnel.

Mr. Warders considers it important that the level of needed law enforcement be determined and that such research should be a function of the comprehensive planning process.

Chairman Arbuthnot asked what the Commission's attitude is toward fee adjustments. Mr. Warders explained that a staff prepared fee proposal will be considered by the Commission at the November meeting and that the Commission is anticipating submitting a fee increase to the 1977 Legislature. He also noted that the Commission will formalize its commitment to comprehensive planning at its November meeting. Prior to that time the Commission staff will provide a procedure of implementation for comprehensive planning and estimate of what resources will be needed.

Mr. Warders reviewed the Commission's interest in continuing funding for land acquisition. He noted that the acquisition of Corps of Engineers land creates a greater demand on Commission resources than does the purchase of land under fee simple title.

Mr. John Moir, Department of Administration, Budget Division, noted that a strategic plan upon which the federal government could approve a letter of credit could be completed as early as FY 1979. He also mentioned that federal funds are increasing at a rate of about 10 percent a year.

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Committee discussion reviewed the possible need for a statement on reorganization. The Committee membership generally felt that reorganization would be increasingly important in the event Commission funding was expanded to include State General Fund money.

Discussion throughout the day centered around the adjustment of forestry, fish and game fees. Senator Williams expressed concern for any increase that made a large adjustment at any one time. He suggested making Kansas fees an average of the fees charged in surrounding states. He reminded the Committee that the Commission is nearly new and is just "catching on" to what needs to be done.

Representative Cubit reviewed how federal fund apportionments are determined by the number of license sales and state land area. The elimination of exemptions would increase the amount of federal funds. Representative Holderman questioned whether or not it would be appropriate to continue to exempt the current category of age 65 and over for fishing on non-Commission lands while removing all other exemptions.

Further discussion resulted in a motion by Representative Rogg to recommend to the 1977 Legislature that either the currently requested budget of the Commission be reduced by \$500,000, the amount requested for land acquisition, or that a fee adjustment be authorized. (This motion will be before the Committee in its November meeting.) Representative Rogg suggested that a major fee increase prior to implementation of the comprehensive plan may be premature. He also did not feel it would be possible for the Commission to buy sufficient land to meet future hunting needs.

Representative Cubit discussed an adjustment to Commissioner Hawes proposal that would charge \$8 for a hunting license, \$7 for a fishing license, and \$14 for a combination license. Consideration was also given to a reciprocal fee system for out-of-state fees. The Committee expressed dissatisfaction for a Junior and Senior Sportsman license as proposed by Commissioner Hawes.

Representative Holderman suggested that should a fee adjustment be recommended, a sliding scale would be appropriate. This would give a range, fixed by statute, within which the Commission could set its fees by regulation. The legislative process would check on the fees through the appropriation process and legislative review of regulations.

Chairman Arbuthnot requested a review of the Commissions fee proposal prior to the November Committee meeting. Through discussion the following proposed recommendations were developed for consideration:

1. that a comprehensive plan be implemented at the earliest possible time;
2. that the Forestry, Fish and Game Commission increase its emphasis on fiscal management and that the qualifications for the Director of the Commission be properly balanced between wildlife resource management and business management skills;
3. that the Legislature adopt a resolution requesting the U.S. Corps of Engineers to review its land acquisition policies in order that the public may be properly informed as to future restrictions on the use of acquired lands;
4. that the Legislature adopt a resolution requesting the U.S. Congress to amend the Flood Control Act 1954 and allow less restrictive licensing of the U.S. Corps of Engineer land to state fish and game agencies; and
5. that a special standing committee be created with responsibility for the Forestry, Fish and Game Commission, Parks and Resources Authority, and Historical Society.

The meeting was adjourned until November 4 and 5, 1976.

Prepared by John Rowe

Approved by Committee on:

11-15-76
date



CONFEREES AND GUESTS PRESENT
October 4 and 5, 1976

U.S. Corps of Engineers

Tulsa District

R.C. Green
Loren M. Mason
Charles M. Pearre
E.A. Sousa
Bill Stahl

Kansas City District

E.N. Elkins
L.P. Kelly

Kansas Fish and Game Commission

Oliver Gasswint
Victor McLeran
Robert E. Ward
Fred Warders

Jayhawk Audubon Society

Andrew M. Finfrock

Department of Administration - Budget Division

John Moir

As of 6/30/76

FISH AND WILDLIFE LICENSES-KANSAS CITY DISTRICT

U.S. CORPS OF ENGINEERS

<u>Project</u>	<u>License No.</u>	<u>Acres</u>	<u>Agricultural Lease Acreage</u>	<u>Rental</u>	<u>75% Return</u>
Clinton	None	0	11,880	\$224,269	\$168,202
Hillsdale	None	0	1,561	19,387	14,540
Kanopolis	None	0	13,226	132,862	99,646
Pomona	None	0	2,529	30,935	23,201
Melvern	DACW41-3-75-116	9,377	1,577	13,630	10,223
Milford	DACW41-3-73-86	5,630 (New Cond 5)	6,926	24,902	18,677
	DA-23-028-CIVENG-66-2118	11,133 (Old Cond 5)			
Perry	DACW41-3-70-120	10,984	5,974	56,501	42,375
Tuttle Creek	DA-23-028-CIVENG-64-623	12,030	1,527	10,433	7,825
Wilson	DA-23-028-CIVENG-65-936	6,059	3,210	27,533	20,650
TOTAL LEASE PAYMENTS				\$540,452	\$405,339

ATTACHMENT II

TULSA DISTRICT CORPS' LAND IN STATE OF KANSAS

ATTACHMENT III

<u>Project</u>	<u>License No.</u>	<u>Acres</u>	<u>A&G Grazing Lease Acreage</u>	<u>Rental</u>	<u>75% Return</u>
Toronto	DA-34-066-CIVENG-60-598	4,366	764	\$ 1,978	\$ 1,484
Fall River	DA-34-066-CIVENG-60-300	10,892	1,754	4,282	3,212
Council Grove	DA-34-066-CIVENG-66-536	2,638	124	660	495
Elk City	DACW56-3-68-16	11,680	847	2,378	1,784
Marion	DACW56-3-68-201	3,521	527	9,605	7,204
John Redmond	DACW56-3-68-367	1,636	545	1,791	1,344
Big Hill	None	-	613	5,258	3,943
Copan	None	-	240	1,395	1,046
Kaw	None	-	1,810	9,818	7,363
El Dorado	None	-	7,536	76,016	<u>52,012</u>
					\$79,887