

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Charlie L. Angell at  
Chairperson

8:00 a.m./p.m. on Thursday, January 13, 1983 in room 123-S of the Capitol.

All members were present except:

Senator Paul Hess (Excused)

Senator Paul Feleciano

Senator Tom Rehorn

Committee staff present:

Ramon Powers, Research Department

Don Hayward, Revisor's Office

LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee:

Guy Gibson, Chief Engineer, Division of Water Resources of the State Board of Agriculture

Lynn Burris, Director, Park and Resources Authority

Senator Werts moved that the minutes of the January 12, 1983 meeting be approved. Senator Gordon seconded the motion, and the motion carried.

Guy Gibson distributed, "Feasibility Study for Assuming that Part of the 404 Program Pertaining to Dredge and Fill on Non-Navigable Waters in the State of Kansas" (Attachment 1) to the Committee. He reviewed the status of the water quality problem in Groundwater District No. 2 near Burrton, Kansas. He expects a report the first week of February from the interagency task force dealing with the matter. Mr. Gibson reported on the Marais Des Cygnes River study. He said through the months of June, July, August and part of September, the stream flow has been determined to be inadequate by the Kansas Department of Health and Environment and the Fish and Game Commission. The Corps of Engineers has been releasing water from the Melvern and Pomona Reservoirs but are now in the process of reevaluating this. Mr. Gibson suggested the State of Kansas may wish to consider the possibility of purchasing water from these reservoirs. He said it was his understanding that the Corps of Engineers could approve purchases without an Act of Congress if the purchase did not exceed a certain magnitude. Chairman Angell requested staff to check into the possibility of the State of Kansas purchasing water from Melvern, Pomona and Tuttle Creek Reservoirs. Mr. Gibson explained the background of the Arkansas River - Colorado situation. He said it has been decided to attempt to formulate a procedure for arbitration for the Kansas - Colorado Arkansas River Compact. Mr. Gibson stated he is well pleased with the progress made in the computer system for his agency.

Lynn Burris said his agency increased camper fees and held hearings on the matter. They have adopted a \$25.00 annual camping fee. Mr. Burris mentioned employee morale has been good in his agency. He discussed the extensive storm damage at Tuttle Creek and Chaney Reservoirs, the use of inmates from the honor camp at El Dorado and the increasing use of volunteers. The legislative matters the agency is requesting are as follows: increasing the penalty for violation of non-purchase of a vehicle permit from \$2.00 to \$5.00; instituting a similar penalty for non-payment of camping fees of \$5.00; permitting concessionaires who sell permits to charge a 25¢ service charge as is presently done by county clerks; requesting a special designation by the Legislature on the number of acres to be included at the Hillsdale State Park and including additional land at the El Dorado and Toronto Reservoirs. Mr. Burris agreed with Senator Vidricksen that they could certainly use two or three more honor camps similar to the one at El Dorado.

Meeting adjourned.

Senate Energy & Natural Resources

Jan. 13

Name

Organization

Ed Reinert

League Women Voters

Lynn Burris, Jr.

State Park Authority

Russ Hatfield

Water Bureau Office

Jim Aiken

KDHE

James Power

KDHE

Jerry Coarsed

KG&E

Scott McAmley

Western Power

Ray D. Shewket

N.C.P. & W. Co.

Jan Meyers

Senate

D. WAYNE ZIMMERMAN

THE ELECTRIC CO'S ASSOC. OF KS.

Jim Edwards

KACI

Kon Caches

KACI

Roland Wisler

KNRC

Division of Water Resources  
Kansas State Board of Agriculture

Feasibility Study for Assuming that Part of the  
404 Program Pertaining to Dredge and Fill on Non-Navigable Waters  
in the State of Kansas

The Division of Water Resources, Kansas State Board of Agriculture, was approached by the Environmental Protection Agency and formal meetings were held between the Environmental Protection Agency (EPA) and the Division of Water Resources (DWR) on November 15, 1982, November 23, 1982 and December 20, 1982, to discuss the feasibility of Kansas assuming that part of the 404 Program pertaining to dredge and fill activities on non-navigable waters in the State of Kansas. Persons involved in these meetings were Bob Koke and Joe Najarian from EPA and Guy E. Gibson, George Austin and Emmett Dusharm of DWR.

The Federal 404 Program in Kansas is currently being handled by two Corps of Engineers Districts. The Kansas River Basin is under the authority of the Kansas City District and the Arkansas River Basin, under the Tulsa District. DWR has good relationships with both Districts and is not critical of the effort or cooperation of the Districts, but for the benefit of the Kansas public, it seems desirable for them to be served by one state agency. Because of Federal government policy, EPA wants a state agency to assume the 404 Program and since DWR is the regulatory agency which administers the permit program which most closely meets EPA guidelines, EPA has expressed that DWR should conduct a study regarding assumption of the program by DWR. Presently under the provisions of K.S.A. 82a-301 through 305a, DWR processes applications and plans which require a 404 permit. Other laws administered by DWR applicable to the 404 program are K.S.A. 82a-307 through 82a-311 and K.S.A. 24-126.

As a result of the meetings held with EPA, on January 4, 1983, Harland E.

*Atch. 1*

Priddle, Secretary of the Kansas State Board of Agriculture, signed a grant application in the amount of \$60,135 from the Environmental Protection Agency. This grant application has now been reviewed by the EPA Regional Administrator, Morris Kay, and will be forwarded to Washington, D.C., with a recommendation of approval for funding. These funds will be used by DWR to make a feasibility study of DWR assuming that Section of the 404 program pertaining to dredge and fill on non-navigable waters in the State of Kansas.

The feasibility study shall consist of five tasks:

1. Conduct an administrative framework analysis of DWR describing the current responsibilities and any additional responsibilities that would be needed for DWR to assume the program.
2. Develop proposals for memorandums of understanding between federal and state agencies to establish procedures to carry out the program.
3. Outline a general description of activities to be coordinated with the U. S. Corps of Engineers relating to navigable waters in the State of Kansas.
4. Determine levels of expertise and costs needed to operate the program.
5. Analyze current statutory authority and determine if additional legislation or regulations are needed for a state program.

This grant study will conclude June 30, 1984, after which a decision will be made as to whether to enter into a pilot program for a period of one year. The pilot program is a training period in which the state gains experience in operating the permit program. At the end of the pilot program a decision will be made whether to retain the program on a permanent basis. DWR may withdraw from the program at any time and the program would revert back to the Corps of Engineers.