

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by SENATOR MERRILL WERTS at
Chairperson

8:00 a.m./~~p.m.~~ on FEBRUARY 26, 1985 in room 123-S of the Capitol.

All members were present except:
Senator Paul Feleciano - Excused

Committee staff present:
Ramon Powers - Research Department
Don Hayward - Revisor's Office
Nancy Jones - Committee Secretary

Conferees appearing before the committee:
Representative Ron Fox, Chairman, House Energy & Natural Resource Committee
Paul Fleener, Kansas Farm Bureau
Bruce Jansen, Admin. Asst., Kansas Water Authority
Russell Crites, Member, Kansas Water Authority
Joseph Harkins, Director, Kansas Water Office

Senator Gordon moved the minutes of the February 19, 20, and 21, 1985 meetings be approved. Senator Vidricksen seconded the motion, and the motion carried.

HB 2099 - Relating to the State Water Plan

HCR 5010- Relating to the State Water Plan

Representative Fox reviewed for committee members the background of HB 2099 and HCR 5010. Work on the State Water Plan began three years ago to produce a document which was both workable and flexible to meet the concerns and issues of all agencies involved. Adoption of the plan by a resolution or a bill was considered in HB 2098, with the House Energy Committee deciding against that procedure as codification would restrict needed flexibility. The process adopted in HB 2099 allows for an annual review by the legislature of the State Water Plan to determine if objectives are being attained, then legislative implementation can follow. Legislative control is important as addressed in current law, but flexibility for the Kansas Water Authority and Kansas Water Office must be retained. Bills implementing certain recommendations derived from long range objectives of the Water Plan are being considered by the House this session. Representative Fox referred the committee to the memorandum of testimony given before the House Committee with recommendations of what needs to be addressed currently (Attachment A).

Adoption of HCR 5010 is important in order to establish an ongoing process of development as well as to commend the Kansas Water Office and Kansas Water Authority for their work on the Plan.

Bruce Jansen presented copies of a letter which summarized a conference call of the Kansas Water Authority stating the position of the Authority and Office on HB 2099 and HCR 5011. (Attachment B).

Paul Fleener testified in support of HB 2099 and HCR 5010 (Attachment C). Farm Bureau would prefer some redefinition in the area of minimum stream flow requirements but supports the concept and direction of the plan. In response to a question from Senator Kerr, Mr. Fleener concurred with the strategy of HB 2099 and feels that with adoption of the resolution and with public and legislative support, the Plan will accomplish its purpose and will become a living document. There is a good check and balance system in the plan with the annual review included.

Notice was taken of a statement by Jan Garton with her recommendations on the Water Plan (Attachment D). Russell Crites, Kansas Water Authority member made a brief statement regarding the importance of finding the right people for the basins advisory committees and appropriating the necessary funds to implement action as needed.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m./~~p.m.~~ on FEBRUARY 26, 1985

No opponents appeared on either HB 2099 or HCR 5011.

Chairman Werts asked Mr. Harkins to explain what the annual report would consist of as contemplated in HB 2099. Mr. Harkins stated that for next year, as an example, there would be two major objectives: Development of a new section on Fish, Wildlife and Recreation and development of the 12 basin plans.

A brief review of the Basin Advisory Committee process was presented by Mr. Harkins with emphasis on its importance to the Water Plan. Two concerns given priority are the development of a Small Lakes Program and the expansion of minimum stream flow designations. A bill is now under consideration in the House which would set new standards for minimum stream flow.

Senator Hayden suggested action on the measures be delayed until all members of the committee were present, as any and all concerns should be heard before action is taken.

The Chairman recessed the meeting at 8:50 a.m. to reconvene outside the Senate Chamber immediately following adjournment of the Senate.

The meeting reconvened at 12:10 p.m. outside the Senate Chambers with all members present.

A motion to recommend HB 2099 favorably was made by Senator Kerr and seconded by Senator Langworthy. The motion carried by voice vote.

A motion to recommend HCR 5010 favorably was made by Senator Vidricksen and seconded by Senator Daniels. The motion carried by voice vote.

The meeting was adjourned at 12:15 p.m. The next meeting will be March 5, 1985.

2-26-85

Guest List

Maryann Bumgarner	Lawrence	Sh. Burke with
Russell & Cora	Ottawa	Ks Water Auth
Joe HARKINS	KWO	
Ch. Duffy	Topoka	KWO
James [unclear]	Lawrence	KWA
Rich McFee	Topoka	KLA
John Jay Rosner	Topoka	KCC
Wayland Anderson	Topoka	DWR
Samuel [unclear]	Topoka	DWK
Nelen Stephen	P.V. Ks.	LWV
Paul E. Fleener	Manhattan	Kansas Farm Bureau
Chris McKenzie	Topoka	League of Ks. Municipalities
Doris K. Nagel	"	Div. of Budget

MEMORANDUM

2-26
February 5, 1985

TO: House Energy and Natural Resources Committee
FROM: Kansas Legislative Research Department
RE: Summary of Testimony on the State Water Plan

Kansas Fish and Game Commission

The Commission supports a dynamic Plan. The Commission's fears that various fish and wildlife concerns would not be addressed, have been somewhat alleviated. They are confident the fish and wildlife section, to be developed next year, will address their concerns.

The Commission totally supports other sections of the Plan completed to date. They especially support rural flood management, multipurpose small lakes, better protection of waters from pollution, and formulation of minimum desirable streamflows.

State Conservation Commission

The Commission supports the Plan and is requesting funding in FY 1986 to implement certain recommendations.

A. Management Section

1. Multipurpose Small Lakes Program (Recommendations 17, 18, and 19). Favored by the Commission.
2. Rural Flood Management (Recommendation 28). The Commission is requesting \$300,000 in FY 1986 to implement Recommendation 28 and \$100,000 to implement Recommendation 29 for Watershed Planning Assistance.

B. Conservation Section

1. Agricultural Water Conservation (Recommendations 37, 38, 39, 40). The Commission supports these recommendations including the request for \$600,000 for FY 1986 to enhance the existing Water Resources Cost-Share Program. Under Recommendation 40, the Committee supports amending legislation to allow conservation districts to levy up to 2 mills to a maximum of \$55,000 plus \$7,500 for district operations expenditures.

S. ENR 2/26/85
ATTACHMENT A

C. Quality Section

1. Agriculture Runoff (Recommendation 59). The Commission requested \$600,000 for FY 1986 which will be handled the same as Recommendation 27.

The Commission is requesting an additional 4.5 F.T.E. to administer recommended programs.

Division of Water Resources, State Board of Agriculture

The Division participated in the development of the Plan and believes it represents the most comprehensive water resources planning document thus far compiled in Kansas.

Many of the issues in the Plan are complex and proposed solutions could have far-reaching impacts. Many proposals suggest policy and regulatory changes that will require increased staffing to perform the duties required. Most decisions cannot be made until basin planning is completed, statutory changes are made, or decisions are made by the federal government.

State Association of Kansas Watersheds

The State Association of Watersheds adopted a resolution at their 34th annual meeting in support of the State Water Plan as drafted.

Representative Ken Grotewiel

Representative Grotewiel raises concerns about the conservation section of the Plan. He feels that the relationship between price and use of water is not adequately explored. He finds no mention of how local building codes could be used to effect use. There is no discussion of the chief engineer's power to limit senior water right holders, or how the chief engineer is selected.

There is little on targeting of funds for soil conservation and watershed development. Representative Grotewiel is also concerned about the use of the word "conservation" and the contradictory "conservation ethics" that appear in the Plan.

Jan Garton, Manhattan, Kansas

She commends the Office for development of a continuous planning process, but argues that the Office ignored the causes of the present water problem by not analyzing current uses of water.

Ms. Garton calls for a major overhaul of the water appropriations law. She argues that the Plan endorses the depletion of groundwater supplies used to irrigate crops unsuited to the region.

Ms. Garton recommends that the Water Office implement a sustained yield policy for groundwater resources, that the Water Office investigate the impact of phasing out irrigation using groundwater supplies upon the future of water supplies in western Kansas, and that membership of the Kansas Water Authority be expanded to include a representative of the Kansas Fish and Game Commission as an ex officio member and a representative of a group identified with the protection of natural resources and the public interest.

In separate testimony concerning minimum desirable streamflows, Ms. Garton recommends:

1. That this year's minimum streamflow recommendations be raised so that no designated flow is below those suggested by the Kansas Fish and Game Commission.
2. That models be developed so that the impacts of minimum streamflow levels upon riparian habitat, fisheries, and terrestrial wildlife populations can be predicted, and that methods be developed to determine the impact of low flows on Quivira National Wildlife Refuge and other downstream habitats.
3. That groundwater development within the alluvium of all streams under consideration for minimum streamflow protection be barred.
4. That once models have been developed, future minimum streamflow protection be negotiated on the basis of life levels, so it will be clear what kind of population and habitat losses will be incurred by proposed minimum streamflows.

The Kansas River Alliance

The Alliance supports the Plan in general, but with certain comments:

A. Management.

1. Missouri River Management (Recommendation 1) — The Alliance supports formation of an agreement or compact among basin states.
2. Large Reservoir Management (Recommendations 3, 4, and 5) — The Alliance supports the recommendation especially the assurance program. The members urge acquisition of any additional supply storage in federal reservoirs and believes storage should be controlled by the state.
3. Large Reservoir Management (Recommendations 6 and 7) — The Alliance recommends and will participate in action to purchase storage in existing reservoirs at original cost; however, it is concerned about trading storage among reservoirs if it involves trading outside river basins.

4. Water Marketing (Recommendations 11 and 12) — The Alliance agrees that the present marketing program needs to be revised.
5. Large Reservoir Finance (Recommendations 13, 14, 15, and 16) — The Alliance believes State General Funds should be included to finance any "pool" of water supply because such a pool includes esthetics and recreational values.
6. Multipurpose Small Lake Programs (Recommendations 18 and 19) — The Alliance believes the same criteria apply to small lake programs as would apply to large reservoirs, i.e., commitment from future users.
7. Minimum Desirable Streamflows (Recommendations 20, 21, and 22) — The Alliance supports establishment of minimum desirable streamflows to be developed along with the assurance program.
8. Local Planning Policy (Recommendation 30) — The Alliance definitely supports the concept of basin advisory committees.

B. Conservation

The Alliance views conservation as efficient management, not mandatory curtailment. The only effective reduction of water use would be reduction of urban and rural irrigation.

The Alliance agrees with Recommendations 33 and 34 that strict management plans be required where needed as identified in the basin planning process. However, it believes that it would be impractical to require such detailed plans.

The Alliance notes that cost-share for meters is not recommended for municipal users.

C. Quality

1. Public Water Supply Protection (Recommendations 55 and 57) — The Alliance agrees with protection plans, but is concerned about who is responsible for requiring conformance and who would pay for protection facilities.
2. Oil and Gas Regulatory Program — (Recommendation 60) — The Alliance supports increased regulatory activities.
3. Countywide Water/Wastewater Plan (Recommendation 61) — The Alliance asks who is the ultimate authority in establishing such a plan?
4. Groundwater Information System and Mineral Intrusion (Recommendations 63 and 64) — The Alliance supports both recommendations.

D. Development

1. The Alliance is a strong believer in basin planning and management and is anxious to participate in basin planning activities.

Kansas Section, American Water Works Association

The Kansas Section of the Association supports adoption of the Plan. In particular, it supports the assurance program as a sound method of marketing state-owned water and urges early adoption of legislation to implement the program. (The section notes that drought contingency plans do not provide for use of water by industries.)

The Kansas section states that a major deficiency of the present marketing program is that contracting entities do not acquire property, property rights, or reservation rights to water thereby limiting long term bonding capabilities.

It also defends the historic role of the state in contracting for water supply storage in large federal reservoirs. It does not want the state to relinquish that role as proposed in the Plan.

The Kansas section encourages the Legislature to give it responsibility for formulating municipal conservation plans that meet the objectives identified in the State Water Plan.

Required municipal water conservation measures do not need to reduce Kansan's quality of life, the Kansas section notes.

The Kansas section strongly supports formation of basin advisory groups so local interests are honored in the planning process. The basin advisory groups should take a leading role in basin planning.

Kansas Natural Resources Council

The Council views the Plan as a good beginning although it has concerns about the conservation section.

The Council objects to the continued use of supply management tools in treating the supply problem in Kansas. It objects to the definition of conservation in the Plan, stating that the definition is an excellent definition of water planning.

It is suggested that demand management be used to create future supplies by using water more efficiently. If planners disregard the vast potential to conserve, when the bill comes due for a new supply project the demand may disappear completely.

The Council believes that the constitutional questions surrounding mandating conservation for existing water right holders be addressed directly in the water planning process.

The Council asks, where is the public in basin planning? It recommends that a public interest category be included on every basin advisory board, because demand management requires consensus that public interest representation can provide.

Sierra Club — Kansas Chapter

The Sierra Club states that the Kansas Legislature should adopt a set of goals and policies for the use of the state's water and direct state agencies to meet those goals. Second, the Legislature could adopt a strengthened version of the Plan as presented by the Authority.

The Kansas Chapter specifically recommends that:

1. The Plan shall include clear and concise policies and goals governing the management, conservation, and development of the state's water resources.
2. The conservation section of the Plan be strengthened and include the following policies:
 - a. water resources already developed shall be used to the maximum extent before new sources are developed;
 - b. water development plans shall achieve maximum practicable conservation and efficient use of the water of the state; and
 - c. water shall be reclaimed and reused to the maximum extent feasible.
3. The Plan shall include a requirement for research directed towards the policies and goals of the State Water Plan.
4. Each basin planning advisory group should be elected by the citizens of the basin.

The League of Women Voters of Kansas

The League endorses the Plan as a very good beginning towards a continuous coordinated management effort. However, it states that there is no mention of when state conservation plans would be adopted or who would implement them. There are no incentives for conserving and no penalties for failure to conserve. Metering is not proposed in the Plan as a conservation measure, and planned depletion is not addressed.

The League notes that economic incentives may be necessary to insure better compliance with water quality mandates in the Plan.

The importance of local planning is not given sufficient emphasis, according to the League. Representatives who serve only the public interest should be included in basin plan development.

Finally, the League's water study and consensus focused on the Appropriation Act which members believe must be altered so as to provide that some water uses can take priority over the first in time concept, especially in drought conditions. This issue is not confronted in the Plan.

The League believes the conservation, quality, and local input (public interest) should receive more indepth attention.

Ken Fenwick, Larned, Kansas

Mr. Fenwick is concerned with the minimum desirable streamflow section of the Plan. He notes that "zero runoff" farming practices, streambed growth, and the failure of Colorado to release water down the Arkansas have prevented minimum streamflows. He feels that minimum levels will be adjusted later as the higher population density of eastern Kansas requires more water. Farming interests should have a big part in setting minimum streamflows.

League of Kansas Municipalities

The League disagrees with a number of aspects of the Plan; however, it believes that the general policy plan reflects an outstanding effort to address the water supply and water quality needs of the people of the state.

A. Local Planning.

The League strongly believes that the local planning advisory committees not be similar in composition to the Kansas Water Authority; if that occurs the League believes the municipal water interests (78 percent of all Kansans live in cities) would be under-represented. Although the League endorses the Authority's general plan for representation on local planning committees, it records its reservations to the Plan. One reservation is that at present municipal representation includes rural water districts, and no limit is placed on the selection of the six other members of the committee.

B. Large Reservoir Management

The League generally endorses the proposals in this subsection of the Plan with one reservation. It strongly opposes any suggestion that the state government preclude local units of government from negotiating directly with the federal government for the purchase of water storage in existing and future federal reservoirs.

C. Water Marketing

The League supports the aggressive marketing of water supply to municipal and industrial customers. It also supports short-term sale of water for irrigation as long as such sales do not take precedence over emergency contracts with municipal users.

The League supports modification of the 50 percent take-or-pay provisions in the marketing law and opposes the current interest charge on the net amount of moneys advanced from the general fund and the 2.5 cent per thousand gallons surcharge. The League urges review of other provisions of the rate structure.

D. Large Reservoir Finance

The League believes the state of Kansas should play a lead role in financing of major water supply improvements by use of bonds and other methods. It is troubled by the failure of the Plan to specify the source of funding for the reserve or "savings" fund.

E. Small Lakes Program

The League supports state assistance and participation in the construction of small lakes with water supply features.

F. Urban Flood Management

The League endorses the Plan's recommendations.

G. Rural Flood Management

The League endorses Recommendation 28, if the state truly would make available funding for cost-sharing assistance to cities as well as watershed districts.

H. Agricultural Water Conservation

The League opposes any effort to grant conservation districts independent taxing authority. Taxes levied on a countywide basis should be levied by the board of county commissioners.

I. Municipal Water Conservation

The League believes that it is not proper to have state-mandated municipal water conservation planning. It supports the state promulgating water conservation planning guidelines and providing technical assistance in developing and implementing municipal water conservation programs. With state assistance, municipalities will adopt water conservation programs.

The League has adopted a policy position recommending that the Legislature grant authority to cities to implement conservation measures applicable to users of a municipal utility system as well as other water users within a city (i.e., private wells) as part of a formally adopted municipal water conservation program.

J. Water Supply Protection and Aquifer Protection

The League is troubled by the fact that no effort has been made to assess the financial impact of recommending preparation of environmental plans by local units of government. It endorses the environmental performance zoning recommendations in the final Plan. The League believes it is essential to give cities additional extraterritorial zoning power in order to regulate well installation and other activities that threaten municipal water quality supplies.

K. Oil and Gas Regulatory Program

The League strongly supports these recommendations in the Plan and believes the state should not wait until FY 1987 to implement them.

L. Countywide Wastewater Management Plans

The League believes that any mandate of countywide wastewater management plan be contingent on state support of a 50-50 cost-share of the program.

M. New subdivisions and Wastewater Plans

The League generally endorses the recommendations of this subsection.

Kansas Independent Oil and Gas Association

The Association vigorously opposes assessing the oil and gas industry \$800,000 for enhancement of the oil and gas regulatory program.

It recommends removing Recommendation No. 60 and allowing a restudy of the issue to take place beginning in May, 1985 and continuing through the summer.

The Kansas Rural Center

A. Conservation

The Center supports recommendations to enhance state funding of agricultural soil and water conservation and watershed programs. The Center also supports the concept of requiring conservation plans by irrigators.

B. Management

The Center supports the concept of basin planning, based on local participation and involvement. It is concerned that under the guidelines adopted for local basin committee make-up, irrigation is perceived as the only agriculture in the state (only 10 percent of farms in the state irrigate), and the representation of certain interests (public, environmental, and fish and wildlife) are discouraged. The Legislature should pay close attention to this part of the Plan.

C. Other Comments

The Center notes that the Plan contains no summary of state water policies, such as long term policies or goals. The 65 recommendations summarizing the plan of action do not stand as a policy statement.

The Center recommends that a definite policy and goals statement be drafted to accompany the Plan.

Margaret J. Miller, Wichita, Kansas

Ms. Miller believes that the two main issues to be addressed by the Legislature in implementing a State Water Plan are water conservation and protection from water pollution.

Donna Hinderliter, Wichita, Kansas

Ms. Hinderliter questions the effectiveness of the overall structure of the Plan. She feels that strict controls over our present water supply are needed now, particularly as it pertains to the use of the Ogallala aquifer. She also feels that the rampant use of fertilizers, pesticides, and herbicides should be addressed and solutions proposed.

Ms. Hinderliter is also concerned about the role of individuals and local groups in the basin management committees.

Kansas Canoe Association

The Association supports the summary of recommendations. However, the Association believes that Kansans must rethink the "use it or lose it" philosophy of water resources management and turn to "demand management" of water.

The Association supports the development section, but notes that the issue of recreation in basin plan development is not addressed. It feels that that recreational use, as a nonconsumptive water use, can live hand-in-hand with consumptive uses.

Kansas Farm Bureau

The Farm Bureau is most interested in maintaining local input as basin plans are developed. The entities that have some responsibility for managing our water, such as groundwater management districts, watershed districts, and others, should continue to play an important role in the planning process, especially on basin advisory committees.

The Farm Bureau firmly believes that the state has a role in some of the cost-sharing programs for soil and water conservation. It urges the Legislature to make those investments.

There should be additional planning for transfers where those can be shown as feasible.

The Farm Bureau supports a strong conservation ethic.

Farm Bureau recognizes the need for reasonable standards to protect and maintain the quality of our surface waters and groundwaters. It is not, however, convinced that establishment of "minimum desirable streamflows" is the solution to water quality problems. The Farm Bureau believes additional study of the economic and environmental impact of legislation or regulation requiring minimum streamflows is necessary. It opposes additional minimum streamflow designations until such studies are completed.

Northwest Kansas Groundwater Management District No. 4

The district objects to a recent change in the Quality Section — Oil and Gas Regulatory Program. The district feels that the KDHE and SCC should not author this important section of the Plan. The original wording was more appropriate on this issue.

The district also believes that there should be clearer language in the Basin planning subsection of the development section regarding the interaction and involvement levels of the advisory groups. (It opposes the Water Office developing the planning documents and having the advisory groups review them.)

Wichita, Water Resources Committee

The following summarizes the Committee's position and recommendations.

A. Management Section

1. Large Reservoir Management

The Committee recommends the purchase now of all available suitable water in existing federal reservoirs, to avoid price escalation. Purchasing storage only if an ultimate user commits to that storage is short sighted in view of overall long term state needs, according to the Committee. This policy is also inconsistent with the Multipurpose Small Lakes Program under which the state will develop small lakes in cases where a local entity is either "unable or unwilling to assume the financial obligations."

2. New Reservoirs

The Kansas Water Office is to be commended for its proposal to finance new reservoirs without federal participation. The Committee recommends as a part of the New Reservoirs policy the purchase of flowage easements to prevent continued development in the proposed reservoir area once a reservoir site has been selected.

The Committee recommends repeal of K.S.A. 82a-938, the listing of major reservoirs in Kansas; however, a thorough review should be made of the impact of such action on the continuing development of authorized reservoirs, such as the Corbin and Douglass reservoirs, which may have "grandfather" financial benefits from either state or federal governments.

The Committee believes that a rank ordering of projects must be developed through the basin planning process. Wichita/Sedgwick County, or any other area, must not be penalized if other basin plans are not submitted in a timely manner.

3. Water Marketing

A policy recommendation is made in the Plan to market municipal and industrial water for short term irrigation purposes. The policy deserves thorough consideration but should not be approved if any doubt exists as to its long term impact, the Committee contends. State efforts could best be exercised in purchasing existing federal storage to meet future needs, rather than seeking reauthorization of existing water under state control.

The Committee supports the graduated use schedule since it is consistent with the current marketing program and provides an important incentive for prospective water purchasers.

4. Large Reservoir Finance

The Committee supports a revenue bond financing approach to develop needed new reservoirs. The proposed savings account will assist in development so long as funds are sufficient to develop future reservoirs. Funds should be co-mingled into one account while being segregated for either the conservation fund or the "savings account" to ensure the lowest possible interest rate on state projects.

5. Multipurpose Small Lakes Program

According to the Committee, the emphasis placed on the small lakes program is disproportionate to the benefits it may potentially offer. Development of numerous small lakes could result in health and financial burdens for the state.

The Plan remains vague on the definition of a small lake. This should be clarified.

An alternative to the small lakes program may be to purchase existing federal storage and construct pipelines to areas of need. Also, the Committee recommends the state conduct a cost/benefit analysis of all possible solutions before proceeding with any small lake development.

6. Minimum Desirable Stream Flows

Minimum stream flows are desirable so long as water is available for release and a higher priority for water use does not exist, according to the Committee. Water supply, according to the Plan, is the major consideration for future reservoir projects. Minimum stream flows must be a secondary consideration and should not preclude continuing development of proposed water supply projects. Potential projects on the Rattlesnake Creek and Ninnescah River are two examples.

7. Urban Flood Management

Flood plain management and regulation are generally accepted as the most effective ways to prevent future urban flood damages. In Kansas, the major tool for flood plain management is the National Flood Insurance Program (NFIP). The federal role is diminishing and NFIP has already identified and mapped all urban flood plains where the risk of damage is significant. Thus, according to the Committee, little can be gained by extending the mapping.

The NFIP offers subsidized flood insurance to all residents of communities which participate and threatens sanctions against residents of communities which do not. Reactivating a State Coordinator could be a powerful force in assisting communities to complete detailed studies when needed and in advocating that results of those studies be accepted by and made part of the regulatory data base of the NFIP. The Committee questions whether or not this section should be in the Plan.

8. Rural Flood Management

The three policy issues mentioned are directed toward land improvement activities initiated by the federal government as part of its soil conservation program and are not flood management issues. The Committee questions whether or not this section should be in the Plan.

9. Local Planning Policy

The Committee supports the basin advisory committees with representation consistent with the primary water needs within each basin, while considering the demographic makeup of each basin. Basin advisory committees should work in coordination with the Kansas Water Office staff and other local officials. The emphasis should be on local development and planning rather than state direction.

This approach requires the Kansas Water Office to:

- a. Coordinate local planning activities between basins.

- b. Provide technical data as needed from a common research data base.
- c. Monitor the basin advisory committee's activities, providing guidance and other assistance as needed to ensure coordination.
- d. Be in a facilitating rather than lead role.

According to the Committee, since the State Water Plan mandates creation of basin advisory boards and requires the formulation of basin water plans, it seems reasonable the state should provide financial assistance. The financial assistance should be directed to appropriate local entities to enable them to complete the planning process. This assistance would include consultant services, if needed.

Basin advisory committees should also have major responsibilities in recommending specific research projects in their basins to facilitate long term water resource planning. State funding for local research should be made available to basin advisory committees, as needed.

The Committee supports submittal of basin plans for legislative approval in 1987. The state must recognize that only partial plans may be available from each basin since less than two years will be available for plan preparation.

10. Research

The Committee supports the emphasis placed on research as it is the foundation of successful basin planning. It encourages use of a common data base and research methodology for all basin plans. Selection of an existing methodology recognized by various planning groups would be appropriate, rather than developing a new approach. The Committee supports the suggestion in the Plan for research into technologies to improve ground water quality for domestic use and research into mineral intrusion problems associated with the Ninnescah River and Rattlesnake Creek.

B. Conservation Section

1. Agricultural, Municipal and Industrial Water Conservation

Conservation programs for irrigators, municipalities, and industries are needed, according to the Committee. The Kansas Water Office should establish guidelines while permitting voluntary plan selection and development at local levels. The Kansas Water Office should be responsible for enforcement of conservation plans for water purchased from the state rather than the chief engineer. If state water is not involved, local governments should have this responsibility.

Metering should be required for agricultural, municipal, and industrial uses. The 50 percent cost sharing program for industries and irrigators should encourage additional metering for improved water management. A similar program should exist for municipalities to encourage more efficient management of all water resources.

Conservation programs should also be required for water obtained from the multipurpose small lakes program.

The Plan currently suggests voluntary or mandatory conservation programs as the only options. In times of severe conditions, pricing controls may be more effective and acceptable to users rather than mandatory rationing.

C. Quality Section

1. Overview of Existing Policy

The Committee supports the overall concept of the quality section which is to recommend new policies as possible additions to the Water Quality Management Plan, rather than duplicating existing legislation and regulation.

2. Organic Chemicals in Public Drinking Water

The Committee supports monitoring water for priority pollutants in order to preserve or improve the quality of water in the state. It is concerned, particularly as it relates to small communities, with costs for the volume and frequency of testing and possible corrective action should a problem be identified.

3. Public Water Supply Protection Plan for Small Water Impoundments

The multipurpose small lakes program has the potential of developing health, management, and financial burdens for the state. Protection of existing and future small lakes is important. Land use around public water supplies should be at the direction of local governments following generally accepted land use practices. Control of the potential sources of surface water contamination will be difficult. The Committee recommends thorough review of possible approaches before policy implementation.

4. Public Water Supply Aquifer Protection Plan

Aquifer protection is important. Land use around public aquifers should be at the direction of local governments following generally accepted land use practices. Control of the potential sources of ground water contamination will be difficult. The Committee recommends thorough review of possible approaches before policy implementation.

5. Oil and Gas Regulatory Program

A number of state geologists are currently on staff with oil and gas responsibilities. The Committee recommends utilizing existing personnel to accomplish the intent of this section.

6. Countywide Water/Wastewater Management Plans

The Committee supports the policy recommendation except that all counties should prepare plans not just those with population in excess of 30,000. Storm water should be excluded from the management plans.

7. New Subdivision Water/Wastewater Plan

It is appropriate that local units of government have control over the certification process as it relates to wastewater management and new subdivisions. Jurisdictions which presently have zoning ordinances and subdivision regulation may wish to incorporate a section which would assure the protection of water quality. The state could certify the local regulations and review procedures under which the individual plats are received, reviewed, and approved.

In rural counties and small communities without zoning and subdivision controls, state assistance may be necessary to develop a review and control system for ensuring that new development does not have an adverse impact on water quality.

8. A State Groundwater Information System

The Committee supports this policy recommendation as it complements the section on research. Data obtained must have a practical application rather than the gathering of statistics.

9. Mineral Intrusion

Use of \$7 million in federal funds is recommended in the Plan, and the U.S. Geological Survey is extensively involved in the state. In view of this, research and development assistance should be obtained from the U.S. Geological Survey in addition to the Kansas Geological Survey.

D. Development Section

1. Basin Planning

Local planning is essential for effective and meaningful basin plans to be developed. Planning guidelines are essential so that each basin utilizes common methodologies and data.

2. Lower Arkansas Basin

The Committee agrees with and supports the seven issues presented. Additional research is needed into mineral intrusion affecting the Norwich and Kingman sites. While considerable water exists in the overall basin, the plan acknowledges that much of it has quality problems and also that Sedgwick County has an immediate need for a new major resource such as the Corbin Reservoir and/or the Milford Pipeline project. The Douglass Lake project has been proposed to meet water needs primarily of rural and small town residents in a three county area and, as such, should be listed in the Walnut Basin section. The Committee retains an interest in the project and will continue to be active in supporting its development.

KANSAS WATER AUTHORITY

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H. Philip Martin, Chairman

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February 25, 1985

Honorable Merrill Werts
Room 120S
Statehouse
Topeka, Kansas 66612

Dear Senator Werts:

I regret that I will be unable to attend the Energy and Natural Resource Committee sessions of February 26 and 27 relating to HB 2099. This bill, as you know, was introduced by the House Energy and Natural Resources as a substitute for HB 2098.

The Kansas Water Authority at its December meeting voted to support the concepts embodied by HB 2098. After the Legislative session began and HB 2099 was introduced the Water Authority met in conference call to discuss the original bill and the alternative. A summary of that meeting is enclosed for your information.

Also find enclosed a copy of a letter, drafted subsequent to the conference call meeting, to outline the Authority's position.

I am hopeful that these enclosures will be of some benefit to you and the members of the committee as HB 2099 is considered. Should you or the members of the committee have any questions, please do not hesitate to contact me. Additionally, the Authority's staff member will be in attendance at your committee sessions and may be able to provide further information.

Sincerely,

A handwritten signature in cursive script that reads "H. Philip Martin".

H. Philip Martin

HPM:ch
Enclosures

S. E. H. R. 2/26/85
Attachment B

Summary of Kansas Water Authority Conference Call on
February 4, 1985

The Kansas Water Authority held a conference call at 4:00 p.m. Monday, February 4, 1985. Authority members participating were: Allan Abramson, Jack Alexander, Hugh Armstrong, Russell Crites, Bill Hambleton, Joe Harkins, Robert Knight, Phil Martin, Larry Panning, Dave Pope, Doyle Rahjes and Helen Schabel. Floyd Smith represented John Dunbar. Chairman Martin indicated that the purpose of the call was to discuss the legislation proposed by Representative Fox regarding a change in the procedure which was proposed by the Kansas Water Authority for adoption of the State Water Plan and to report on the discussion to Representative Fox.

Both bills have been introduced by the House Energy and Natural Resources Committee. The Kansas Water Authority/Kansas Water Office proposal would establish a procedure for the Legislature to approve the State Water Plan by adopting a resolution. The alternative proposal by the House Committee deletes the step where the Plan would be approved by the Legislature.

Martin indicated that he believes the goals of both bills are the same; however, his primary concern was that the alternative proposal would not require the same commitment to the Plan by the Legislature as the original proposal and that he was concerned how the public would perceive the Plan if it was not adopted by the Legislature.

Panning asked how either bill would impact on the implementation of the Plan. Rahjes and Martin discussed the mechanics of the legislative process for adopting the Plan by original proposal and the impact of both bills on legislation and appropriations to implement the Plan.

Harkins described his discussions with Representative Fox on why Representative Fox preferred his proposal. First, the revisor indicated the Legislature has no accepted process to adopt a Plan. Second, Representative Fox believes the Legislature is satisfied with the product. Third, the Legislature is accustomed to dealing with legislation and appropriations but not a Plan or specific Plan contents.

Armstrong stated he believes the proposals are similar. However, the alternative bill does not take into account the commitments to the Kansas Water Authority, Kansas Water Office and the general public. And, since the Governor and Legislature asked the Water Authority for the Plan, the Legislature should take a stand on whether it supports the Plan. Martin agreed that a commitment is needed in some form.

Harkins stated that he believes the issue is primarily procedural in nature and indicated that the legislative proposal would still allow the Legislature to take a position on the Plan. He also noted that there were many recommendations in the Plan which did not require legislation or funding. Therefore, the original proposal might make it difficult to implement these recommendations if the Plan were not adopted by the

Legislature. Abramson pointed out that the Plan is really an executive product; therefore, adoption by the Legislature was not necessary under the separation of powers.

Harkins stated he believes both processes would work, therefore, he does not think the Authority should oppose either action. Crites and Pope discussed whether the Kansas Water Authority needed to take a position in favor of one bill. The Kansas Water Authority's job is to approve the Plan and its responsibilities should be to provide comments on both proposals.

Hambleton said a response that would support either proposal would be appropriate. However, Chairman Fox should be aware that the alternative leaves the perception that the Legislature is not interested in state water planning. Pope, Schabel and Martin agreed with that concern.

Martin suggested the Kansas Water Authority's role should be to outline, in letter form, an analysis of the situation pointing out some of the concerns on both sides of the issue. He stated that the letter should further indicate that both proposals would be an acceptable mechanism to adopt a State Water Plan. Harkins concurred with the caveat that the Legislature make its feelings known regarding the current draft of the Plan in an official way. Martin asked if there was a consensus of the Authority to proceed in that fashion. (There was no objection heard.)

KANSAS WATER AUTHORITY

Suite 200, 109 S.W. 9th Street, Topeka, KS 66612 (913) 296-3185



H. Philip Martin, Chairman

P.O. Box D, 702 Broadway, Earned, KS 67550 (316) 285-6514

February 5, 1985

Honorable Ron Fox
Room 523-S
Statehouse
Topeka, Kansas 66612

Dear Chairman Fox:

In my last letter of January 29 I indicated that the Water Authority would meet by conference call to discuss House Bills 2098 and 2099. That call took place yesterday, February 3.

After a discussion which lasted nearly one hour, the members of the Authority instructed me to relay our comments and concerns to you and the members of your committee.

The Authority is of the belief that the decision you are faced with in regard to these two pieces of legislation is not clearcut. Either approach appears to have both strengths and weaknesses.

Originally envisioned, HB 2098 would seek to have the Legislature and the Governor, through the resolution process, commit themselves to the overall concepts contained within the State Water Plan and reaffirm the direction set out by the Authority and the Kansas Water Office. Further, as the Office proceeded with public meetings and hearings in 1983 and 1984, the members of the Authority and the staff and Director of the Water Office continually reassured members of the public that the Plan would be submitted to the Legislature and Governor. In effect, we assured people that the water planning process was subject to the same oversight as any other function of state government.

The Authority realizes, particularly in light of the Revisor of Statutes position relating to adoption by resolution, that the Legislature indeed has an impressive task before it. We do not wish to advocate a process that would make your jobs any more difficult than they already are.

During the conference call it was pointed out that the really formidable task facing the Legislature is in 1985. Revisions offered to the Plan in future years will not be as bulky as this original document.

On the other hand, HB 2099 provides an avenue for the Authority and Office to make the planning process truly continuous. The "lag time"

built into the present procedure, whereby the Authority, Office and other water-related agencies wait until the Plan is approved before offering legislation, is about one year. Conceivably, this bill could allow development of legislation shortly after Authority approval - in time for legislative consideration shortly after concepts had been developed.

Some concern was expressed that HB 2099 might inevitably lead to less understanding of the complexities of water planning and the diversity of problems which face the state. The development of the State Water Plan has generated considerable interest within the Legislature and has led to a broad understanding of the issues.

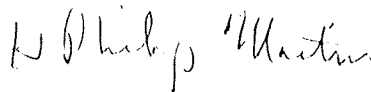
As pointed out by Director Harkins during his presentation to you, water planning in Kansas has been a cyclical undertaking - floods and droughts spur considerable interest. Normality seems to lead to complacency. This cycle needs to be broken.

We hope that this analysis will prove useful to you in your deliberations. The Authority does not believe it appropriate to offer a conclusive recommendation in regard to these pieces of legislation.

You can be assured that we will continue to discharge our duties and responsibilities within the parameters that you, as the State's policymakers, set out for us.

Should you have any questions relating to this matter, please feel free to contact me or any other Authority member.

Very truly yours,



H. Philip Martin

HPM:ch

cc to: Gov. John Carlin
Sen. Merrill Werts
Kansas Water Authority

Statement to:
SENATE ENERGY & NATURAL RESOURCES COMMITTEE

RE: H.B. 2099 - Water Plan Approval Procedures and
H.C.R. 5010 - Commendation for Kansas Water Authority
and Kansas Water Office
February 26, 1985
Topeka, Kansas

Presented by:
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

We sincerely appreciate the opportunity to make brief comments on H.B. 2099 and H.C.R. 5010, legislation and resolution material dealing with the State Water Plan, the Kansas Water Authority and the Kansas Water Office. We appreciate the opportunity to address both pieces of legislation in this brief statement.

First, regarding H.B. 2099: We supported this bill in detail before the House Energy & Natural Resources Committee while making a longer statement in regard to the proposed State Water Plan. It is our belief that there should certainly be an annual examination by the Legislature and by the Executive Branch of Government of the Water Plan and suggested refinements to the Water Plan. A number of long-range goals for the State of Kansas are laid out in each of the sections of the State Water Plan, dealing with Management, Conservation, Development and Quality.

It is entirely appropriate, in our view, and in keeping with our several water resolutions that there be continual public input

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ATTACHMENT C

- an opportunity afforded by the basin planning committees proposed in the State Water Plan - and a continual, or on-going review of the Plan, the planning process, and the achievement year-by-year of stated goals and objectives in all four major areas. For these reasons we certainly support H.B. 2009.

The Kansas Water Authority has spent countless hours reviewing, refining and again re-defining for clarity the abundant supply of research that went into development of the State Water Plan by the Kansas Water Office. H.C.R. 5010 endorses the "continuous and coordinated Water planning process." We too endorse the process and join in commending the Kansas Water Office and the Kansas Water Authority for development of the State Water Plan which is being examined this year, and component parts of which will be implemented this year.

Thank you for an opportunity to make these comments on these two pieces of legislation.

Soil and Water Conservation

We believe the owners and operators of agricultural land can best be served by a voluntary approach to soil conservation using federal and state cost-sharing funds as an incentive for developing and maintaining farm plans, and constructing and maintaining soil and water conservation structures. We ask the Kansas Legislature to adequately fund the state share of cost-sharing programs.

An intensive educational program conducted by the KSU Agricultural Extension Service, in cooperation with the Soil Conservation Service, the Soil Conservation Districts, and county Farm Bureaus, could improve our rangeland and cultural practices on cultivated acres.

We believe KDOT and county highway departments should require that highway construction procedures are conducted in such a way that soil conservation practices are implemented. We further believe pipeline companies, as well as electric and telephone utilities, should be required to preserve and replace top soil, and to reseed those portions of native grass pastures disturbed during construction of underground facility projects.

State Water Agencies

Water is one of our most precious and important natural resources. All segments of our population and all component parts of our economy require an adequate supply of water.

We will continue to oppose changes in Kansas water laws that would result in major reorganization of state water agencies. We believe that a separation of powers and a system of checks and balances in the administration of water programs gives Kansans a better result than any further consolidation would produce.

State Water Policy

We support development of a State Water Plan for Kansas. We believe the Kansas Water Authority should have responsibility for development of the State Water Plan. The Authority should be the agency for water management in Kansas.

The State Water Plan should promote conservation of water by all users. It should also contain far-sighted, well-conceived, and carefully controlled use of international, interstate, and intrastate transfers of water to benefit agricultural producers and all other Kansans.

We urge the KWA to incorporate into the State Water Plan a strong conservation ethic, and methodology for recycling water to extend the life of this limited resource.

Water Districts

We recognize the benefits of Rural Water Districts. Those benefits should be assured by legislation and regulations that guarantee and protect water rights for original rural water district patrons.

We will support legislation—both on a national and state level—that will make funds available for grants to be used in the construction of Rural Water Districts.

We will support legislation—both on a national and state level—that will finance, through federal funds (Farmers Home Administration), Rural Water Districts from watershed structures.

Water Management in Kansas

Kansas farmers and ranchers recognize the importance of securing a Kansas water right as provided by law.

We support the Kansas Ground Water Management District Act, as amended in the 1978 Session of the Kansas Legislature, which gives local water users a voice in determining the use of ground water. Irrigation wells within a GWMD should not be subject to "user fees."

We encourage our members to participate in the organization and management of Ground Water Management Districts. Through participation they will be in a position to have an effective voice in calling for any needed changes, additions or deletions to the Ground Water Management District Act.

Water Quality Standards

We recognize the need for reasonable standards to protect and maintain the quality of our surface waters and groundwater. We are not convinced that establishment of "minimum desirable streamflows" is the solution to water quality problems. We believe additional study of the economic and environmental impact of legislation or regulation requiring minimum streamflow is necessary. We oppose additional minimum streamflow designations until such studies are completed.

We urge the Legislature to make adequate appropriation of funds, to assure that the agency or agencies responsible for issuance of well drilling permits and the maintenance of water quality are enforcing existing statutes and regulations relating to salt water disposal and proper plugging of dry holes.

The Kansas Corporation Commission and the Department of Health and Environment should, prior to giving approval for disposal of salt brines, determine that the proposed method of disposal will assure that there will be no contamination of any fresh water. No well drilled on leased property should be used for disposal of salt water from wells on other property without consent from and compensation to the landowner. The power of eminent domain should NOT be granted for the purpose of salt brine disposal.

We ask that legislation be enacted to require that surface pipes shall be set to a depth sufficient to protect all fresh water formations from contamination.

Watershed Programs

There are many urgently needed watershed structures yet to be built in Kansas. We request that funding for those structures, furnished by the state and supervised by the State Conservation Commission, be increased to facilitate and encourage this statewide program.

In order to expedite planning and construction of watersheds, we urge the Kansas Legislature to consider permissive legislation authorizing the levy of one mill on the acreage of potential watershed areas for a period no longer than two years for the purpose of creating a trust fund, with the annual interest earned from such trust fund to be used for planning expenses involved in new watershed projects.

Jan Garton
219 Westwood
Manhattan, Ks. 66502

COMMENTS ON THE 1984 KANSAS WATER PLAN

The state of Kansas has embarked on a praiseworthy venture -- examining the water supplies across the state, describing water-related problems, predicting water needs, and attempting to discover solutions. The Kansas Water Office, on instruction from Governor Carlin, has instituted a continuous planning process to allow for constant evaluation of policies and programs, and to give the people of the state an opportunity to make their views known. This is commendable.

But it seems to me that the Kansas Water Office has jumped the gun in this process by deciding to ignore the causes of our current and predicted water shortages. Prior to recommending major new construction projects as solutions to our water problems, it seems a rational course for the Water Office to first examine the current uses of water in the state to see if those uses are consistent with the public interest and the public good.

Kansas water law says that the water supplies belong to the people of Kansas to serve the public welfare. But when the public is no longer well served by the present uses of its water supplies, it seems to me to be a major function of a state water planning process to identify and investigate such situations and to propose changes in current use.

Perhaps Kansas water appropriation law is in for a major overhaul. We all know the western half of Kansas is facing severe problems because of the 'first in time, first in right' doctrine, but even more so because of its uneven application involving groundwater impacts on surface water rights.

The state of Kansas continues to endorse the planned depletion of groundwater supplies for irrigation of agricultural crops unsuited to the region's climate. Yet this planned depletion threatens water supplies for many communities within the region; it has resulted in the drying up of many small creeks and streams,

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and the death of a large stretch of one of the state's three navigable rivers. The future of two critical wetlands is cloudy. Wildlife populations and riparian habitats are threatened.

Despite this evidence of destruction, the present draft of the water plan does not call for future curtailment of irrigation. ~~It does not initiate action to establish stream alluvial corridors where current irrigation wells might be restricted as in an intensive groundwater use control district, which would protect streamflows and riparian habitat as well as aid in the slowing of soil erosion. The plan is only lukewarm in suggesting that water resources used for irrigation be better monitored or more efficiently applied.~~

The groundwater supplies underlying western Kansas still provide the potential for a nearly permanent water source far into the future if Kansas adopts a policy of sustained yield for groundwater resources.

I recommend the Kansas Water Office implement a sustained yield policy for groundwater resources.

Instead, the state water plan proposes that research be initiated immediately into water importation schemes so that when western Kansas runs out of water, there'll be other sources available.

This is a frightening prospect. Where does the Water Office suggest that the water come from? Certainly there is no state within the Great Plains region that is water-wealthy. Are we really thinking in terms of Canada and Alaska? Who pays for this monstrous extravaganza? Do we push the costs and consequences of water supply off on future generations because the people today are too timid to address the question of the wisest use of limited resources?

Agricultural economists are predicting that irrigation will not be able to survive much into the 21st century in western Kansas because it will become far too costly. If it is recognized that the irrigation industry is a dying one, doesn't it make so much more sense to phase it out now while there is still water available for municipal, industrial and domestic needs and for the preservation of streams and rivers and wildlife habitat? Is''

it better to commit money to investigate and engineer massive water transfer and distribution systems than to negotiate buy-backs of water rights? Should we confine our definition of the concept of 'development' to expansion only -- or should we think of development as the wisest, most efficient use of a resource's potential? At the very least, doesn't it make sense to ask these questions?

I recommend the Kansas Water Office investigate the impact of phasing out irrigation using groundwater supplies upon the future of water supplies in western Kansas, studying the economic and environmental aspects.

One possible means of accomplishing this would be through a system of retired and/or purchased water rights beginning with those located within the alluvium of rivers and streams. One method of financing the buy-backs would be through imposition of a charge for the water used, based on the amount of an individual's water right. In considering the purchase of water storage in federal reservoirs, there is considerable support for the concept of the user paying; if municipalities and industries are required to pay for water, it is not unreasonable to assess agricultural use, especially since 83% of the water used in Kansas is for agricultural purposes.

Not only is the water planning process to be a continuous effort, but it is to be comprehensive. For that to be true, the ~~comprehensive evaluation of water needs will have to be expanded to include the protection of critical wildlife habitat~~ and specific wildlife populations -- not only as part of a proposed fish, wildlife and recreation section, but in every new program or policy formulated. The entire plan should also undergo close examination to determine the environmental consequences of its proposals. What changes upstream and downstream will a small lakes program cause? What are the consequences of diverting 'surplus' waters in reservoirs for short-term irrigation use, of added watershed development programs, and of only voluntary conservation programs? How can we make wise decisions if only the benefits of proposals are brought to light?

It seems to me that the state water plan should strive to strike a balance between the protection of existing water supplies and development of new ones. We should recognize that we are living with a major water deficit and it is in the public interest to bring that deficit under control.

Treating the symptoms without treating the causes only postpones the pain and foregoes any cure. We must be bold and innovative in our search for answers. We should aggressively seek water-efficient industries to bolster the state's development. One of the long-term goals of a state water plan should be to preserve the greatest diversity of experience and highest quality of life for the people of Kansas.

To give a broader perspective to the examination and creation of water policy in the state, I recommend that the membership of the Kansas Water Authority be expanded to include a representative of the Kansas Fish and Game Commission as an ex-officio member, and a representative of a group identified with the protection of natural resources and the public interest.

At the time of the creation of the Water Authority by the legislature, consideration was given to participation by a representative of Fish and Game; this was later eliminated for reasons unknown to me. Some of the obvious weaknesses of the water plan can be traced to this lack of representation.

While I recognize the hard work and sincere effort that has been put into the current draft of the state water plan, I would like to see the Water Authority recommend against adopting the plan until the Water Office has an opportunity to investigate the causes of the water problems in the state and to propose plans to deal with the causes, so that our water problems will not continue to be perpetuated.

~~I ask that these comments be incorporated into the record of the public hearing regarding the state water plan.~~