

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Ron Fox at  
Chairperson

3:30 ~~am~~/p.m. on January 16, 1986 in room 526-S of the Capitol.

All members were present except:

Representative Spaniol (excused)

Committee staff present:

Ramon Powers, Legislative Research Department  
Raney Gilliland, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes' Office  
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Joseph F. Harkins, Director, Kansas Water Office

The meeting was called to order by Chairman Ron Fox. Representative Rosenau moved that the minutes of February 14 and 15 be approved. Representative Shore seconded and the motion carried.

Mr. Joseph Harkins, Director of the Kansas Water Office, presented a review of the Kansas Water Plan and proposed legislation. He provided copies of a summary of the components of the water plan in the Governor's investment budget. (Attachment 1) The first part of his testimony related to those components.

Part two of Mr. Harkins' testimony was an update on the status of water planning. A Final Draft of the Kansas Water Plan, containing 14 additional policy recommendations was distributed. (Attachment 2) Mr. Harkins asked to return to the committee in approximately two weeks to present the new sections and the modified sections of the water plan. At that time he will provide the committee with proposed legislation for items that require legislation for the implementation of those sections of the plan.

The third portion of Mr. Harkins' testimony related to specific legislative proposals to implement the State Water Plan. He noted that two bills had been drafted at the Governor's request which would fully implement the large reservoir management section of the State Water Plan. Representative Barr moved that the two bills requested by the Governor on the Assurance Program be introduced as committee bills. Representative Acheson seconded the motion. Motion carried.

The next pieces of proposed legislation were technical bills related to amendments to the State Water Plan Act and were requested by the Kansas Water Office. Representative Grotewiel made a motion that these be introduced as committee bills. Representative Ott seconded the motion. Motion carried.

The third area of proposed legislation related to the State Water Plan Storage Act. This was a technical bill requested by the Kansas Water Office. Representative Patterson moved that this bill be introduced as a committee bill. Representative Guldner seconded the motion and the motion carried.

The next legislation would concern implementation of the entire conservation section of the water plan. This was a major portion of the Governor's initiative for implementation. Representative Sutter made a motion to introduce this as a committee bill. Representative Grotewiel seconded and the motion carried.

The final legislation related to the further implementation of the State Minimum Desirable Streamflow Standard Program, requested by the Kansas Water Office. Representative Patrick moved that this bill be introduced as a committee bill. Representative Barr seconded. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
room 526-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on January 16, 1986.

The meeting was adjourned at 4:40 p.m.

The next meeting of the House Energy and Natural Resource Committee will be held on January 21, 1986 at 3:30 p.m. in Room 526-S.



**Status of Water Plan Preparation  
and Implementation**

**by  
Kansas Water Office**

**January 1985**

Attachment 1

House Energy and Natural Resources 1/16/86

Part I - Governor's Investment Budget

During the 1985 Session, the Legislature reviewed the Kansas State Water Plan. At the conclusion of that review, House Concurrent Resolution No. 5010 was passed which stated, in part:

"Be it further resolved: That the Legislature requests that the state agencies which are authorized to manage the waters of the state submit to the Legislature any bills, resolutions or requests for appropriations designed to implement the various segments of the State Water Plan as submitted by the Kansas Water Authority;"

This summer, Governor Carlin directed all water-related agencies to prepare legislative and appropriation requests related to the State Water Plan for his review. He then, has selected the major components of the plan for inclusion in his investment budget. These new and expanded programs are:

	<u>State General Fund</u>
1. Water Assurance Program.....	\$2,877,724
(Water Office \$2,852,724)	
(Division of Water Resources \$35,000)	
2. Water Research.....	\$ 150,000
(Stream/Aquifer Interaction \$100,000)	
(Chemigation \$50,000)	
3. Minimum Desirable Streamflow Standards.....	\$ 132,000
(Gauging Stations \$43,000)	
(Division of Water Resources Personnel \$75,000)	
(Division of Environment \$14,000)	

4. Basin Advisory Committee Support.....\$ 25,000
5. Implementation of the Conservation Section  
Section of the State Water Plan.....\$ 145,000  
(Kansas State University Exktnsion \$40,000)  
(Division of Water Resources \$105,000)
6. Water Conservation Programs.....\$1,185,000  
(High Priority Cost-Share \$550,000)  
(Watershed Dam Construction \$250,000)  
(Conservation Coordinator \$35,000)  
(Small Lakes \$350,000)
7. Water Data Base.....\$ 61,000  
(Division of Environment \$26,000)  
(Division of Water Resources \$35,000)

**Part II - 1986 Additions**

**to the State Water Plan**

**(Separate Handout)**

## Part III - Legislative Proposals

- I. Assurance Program (2 bills) (Governor's Request)
  - A. Establishes Assurance Program
  - B. Establishes Bond Program
  - C. Authorizes Reservation Rights for Water Quality Storage
  
- II. Amendments to the State Water Plan Act (Kansas Water Office Request)
  - A. Prevents Purchase of Storage Without Prior Agreements
  - B. Eliminates Table of Reservoirs and Table of Watershed Districts
  - C. Changes Name of Act
  - D. Transfers Land Rights Cost-Share Program
  - E. Technical Cleanup
  
- III. State Water Plan Storage Act (Kansas Water Office Request)
  - A. Authorizes Graduated Use Schedules
  - B. Authorizes Contracting in Advance for Water
  - C. Requires Approved Conservation Plans
  - D. Describes Use of Development Fund
  - E. Modifies Price Formula
  - F. Describes Method of Depositing Receipts
  - G. Authorizes Retroactive Rate Charge
  - H. Cleanup
  
- IV. Water Conservation Plans (Governor's Request)
  - A. Authorizes Chief Engineer to Require Water Use Efficiency Plans for Municipal, Industrial, Agricultural Users
  
- V. Minimum Desirable Streamflow Amendments (Kansas Water Office Request)
  - A. Establishes Standards for Nine Additional Streams



**FINAL DRAFT**

**Kansas Water Plan**

**Summary of Recommendations**

**January 1986**

**Table of Contents**

**Section**

**Management**

**Fish, Wildlife and Recreation**

Attachment 2

House Energy and Natural Resources 1/16/86

# Management Section

Urban Flood Management

Recommendation #1  
(to be added to  
last year's  
recommendations)

The Chief Engineer shall have authority to require approval of plans and, when necessary, require remedial action on any dam which impounds 30 acre-feet of water or less with a dam height of greater than six feet and which presents a potential loss of human life.

Discussion

Current law exempts dams which impound less than 30 acre-feet of water from state permit requirements. Urban impoundments in some areas may not exceed this capacity. However, these structures may present a threat to public safety in the event of failure.

Legislation

Legislation is needed.

Estimates of State  
Financial Requirements

Initial Year:

No additional state expenditures are needed.

Long Term:

No additional state expenditures are needed.

Minimum Desirable Streamflows

Recommendation #2  
(to be added to  
last year's  
recommendations)

The state should identify minimum desirable streamflows on those streams with sufficient opportunity to achieve such streamflows and with real needs to be protected from future appropriation of water.

Discussion

Minimum streamflows were approved for the Arkansas and Ninnescah rivers and Rattlesnake Creek by the 1985 Legislature. Minimum streamflows have been recommended for the Saline, Smoky Hill, Medicine Lodge, Chikasin, Big Blue, Little Blue, Republican and Delaware rivers, as well as Mill Creek. Recommended values are listed in the table below.

Legislation

Legislation is needed.

Estimates of State  
Financial Requirements

Initial Year: \$132,000  
Long Term: \$200,000 annually

**Recommended Minimum Desirable Streamflows (cfs)—1986**

Stream Name	Location	J	F	M	A	M	J	J	A	S	O	N	D
Saline River	Near Russell	5	5	15	15	15	12	2	2	2	5	5	5
Smoky Hill River <sup>a</sup>	At Ellsworth	20	20	25	30	35	45	35	15	15	15	20	20
Medicine Lodge River	Near Kiowa	50	55	60	60	40	30	6	1	1	4	40	50
Chikaskia River	Near Corbin	30	45	50	45	40	30	16	5	5	8	30	30
Big Blue River	At Marysville	100	100	125	150	150 <sup>b</sup>	150 <sup>b</sup>	80	90	65	80	80	80
Little Blue River	Near Barnes	100	100	125	150	150 <sup>b</sup>	150 <sup>b</sup>	75	80	60	80	80	80
Republican River <sup>c</sup>	At Concordia	100	125	150	150	150	150	150	150	80	65	80	100
Republican River <sup>c</sup>	At Clay Center	125	150	200	250	250	250	200	200	100	90	100	125
Mill Creek	Near Paxico	8	8	8	25	30	35	10	5	5	2	5	8
Delaware River	Near Muscotah	10	10	20	20	20	20	5	3	3	2	10	10

<sup>a</sup> Subject to subsequent assessment of lagged effects of upstream depletions.  
<sup>b</sup> Subject to the stateline flows contained in the Blue River Compact.  
<sup>c</sup> Subject to subsequent assessment of Harlan County Reservoir Operations, development of compact stateline flows and lagged effects of upstream depletions.

Stream Recovery and Aquifer Restoration

Recommendation #3

The Kansas Water Office and Division of Water Resources shall evaluate opportunities to recover streamflow in streams which have undergone severe depletion and, where a high probability of success exists, develop strategies for recovery.

Discussion

Stream depletion has caused serious impacts to native stream fisheries and wildlife habitat, as well as impacting on associated benefits to existing water supplies. While it is not possible to recover many reaches of depleted streams, it may be possible to successfully recover certain portions of streams.

Legislation

Legislation is needed.

Estimates of State  
Financial Requirements

Initial Year:

No additional state expenditures are needed.

Long Term:

\$40,000 annually

Stream Recovery and Aquifer Restoration

Recommendation #4

The state will develop a cost-share program for purchasing water rights from willing sellers in conjunction with local groups so that reaches of streams are allowed to recover some streamflow over the long range.

Discussion

This recommendation will allow the state, in conjunction with local groups, to protect and recover streamflow in some depleted streams through the purchase of existing water rights from willing sellers.

Legislation

Legislation is needed.

Estimates of State  
Financial Requirements

Initial Year:

No additional state expenditures needed.

Long Term:

Will be determined when projects are identified through the basin planning process.

Stream Recovery and Aquifer Restoration

Recommendation #5

The state should examine using the cost-share program for purchasing groundwater appropriations from willing sellers in conjunction with groundwater management districts and cities to protect existing groundwater reserves.

Discussion

This recommendation will allow the state, in conjunction with groundwater management districts and cities to protect existing groundwater reserves through the purchase of existing water rights from willing sellers.

Legislation

Legislation is needed.

Estimates of State  
Financial Requirements

Initial Year:

No additional state expenditures needed.

Long Term:

Will be determined when projects are identified through the basin planning process.

**Fish, Wildlife and  
Recreation Section**



## Environmental Coordination

### Recommendation #6

The state should enact legislation requiring environmental coordination and consideration regarding state involvement in water development projects. State agencies involved in water development activities should be given additional authority as needed to condition state permits and grants for environmental purposes and to enforce environmental requirements.

### Discussion

A uniform and consistent approach for addressing environmental concerns on nonfederal water projects does not exist at the state level. Environmental coordination among state agencies is needed to assure that potential impacts of a proposed project are identified prior to construction. Additional state authority may be needed to adequately address environmental concerns.

### Legislation

Legislation is needed.

### Estimates of State Financial Requirements

Initial Year:	\$49,000
Long Term:	\$49,000 annually

## Environmental Coordination

### Recommendation #7

An interagency review process should be established to facilitate environmental coordination on nonfederal water projects. Final authority regarding environmental concerns should remain with the agency initially responsible for state action; however, an appeal process should be established to resolve potential conflicts.

### Discussion

An interagency review process would provide various state agencies an opportunity to review and comment on pending state permits or grant requests involving water development projects. The review process would be administered through a single point of contact. An appeal process involving a formal administrative hearing by the head of the lead agency would be needed to address potential concerns of an applicant or review agency regarding a lead agency's decision.

### Legislation

No legislation is needed.

### Estimates of State Financial Requirements

Initial Year:	\$14,500
Long Term:	\$ 7,500 annually

Riparian Protection

Recommendation #8

Any channel modification activity shall require a state permit with appropriate conditions to maintain riparian vegetation and stabilized banks as designated by rules and regulations of the Chief Engineer, Division of Water Resources.

Discussion

Physical design criteria and vegetative cover play an important role in maintaining stable banks. State permits will be required for channel modification projects which affect riparian areas, to assure proper vegetative cover and stabilized banks.

Legislation

Legislation is needed.

Estimates of State  
Financial Requirements

Initial Year:	\$47,000
Long Term:	\$47,000 annually

## Riparian Protection

### Recommendation #9

County conservation districts shall be required to develop county riparian protection programs to assist local landowners in managing and maintaining riparian areas thereby retaining bank stabilization, timber, water quality, erosion and sediment control, wildlife habitat, recreation and aesthetic benefits.

### Discussion

A county riparian protection program will provide for the general protection and management of natural riparian areas, which have been depleting due to conversion and poor management. The local county conservation districts will assist local landowners in managing and maintaining riparian areas to retain the many benefits such areas provide.

### Legislation

Legislation is needed.

### Estimates of State Financial Requirements

Initial Year:

No additional state expenditures are needed.

Long Term:

No additional state expenditures are needed.

## Riparian Protection

### Recommendation #10

The state should provide for the use of conservation easements on riparian lands identified as crucial wildlife habitat to further encourage protection and proper management of these areas.

### Discussion

This recommendation will establish a conservation easement program in which voluntary participants can either donate or sell to the state, easements of riparian land which has been identified as crucial wildlife habitat. This land will be managed in accordance with a management agreement negotiated between the landowner and the state.

### Legislation

Legislation is needed.

### Estimates of State Financial Requirements

Initial Year: \$21,000

Long Term: Cannot be determined at this time.

## Wetland Protection

### Recommendation #11

**The state should require local conservation districts to develop a county wetland protection program to promote the general protection and management of wetland areas.**

### Discussion

Wetland areas in Kansas can provide important water quality, groundwater recharge and wildlife benefits. Many natural wetland areas have been converted to other uses in the past. County protection programs would be developed by local conservation districts in accordance with state rules and regulations to assist landowners and operators in managing and protecting wetland areas. Various state and federal agencies would assist conservation districts in the development and implementation of county wetland programs.

### Legislation

Legislation is needed.

### Estimates of State Financial Requirements

Initial Year:

No additional state expenditures are needed.

Long Term:

No additional state expenditures are needed.

Wetland Protection

Recommendation #12

**The state should provide for the use of conservation easements for wetland areas identified as crucial wildlife habitat.**

Discussion

This recommendation will establish a conservation easement program in which voluntary participants can either donate or sell to the state, easements of wetland areas which have been identified as crucial wildlife habitat. This land will be managed in accordance with a management agreement negotiated between the landowner and the state.

Legislation

Legislation may be needed.

Estimates of State  
Financial Requirements

Initial Year: \$21,000

Long Term: Cannot be determined at this time.

River Recreation

Recommendation #13

**The state should enact legislation to provide for limited instream public recreation use on designated recreation rivers.**

Discussion

Rivers and streams in Kansas represent a significant recreation resource. Current statutes are unclear regarding public use of non-navigable rivers which traverse private property. The state should provide for instream public use on appropriate rivers.

Legislation

Legislation is needed.

Estimates of State  
Financial Requirements

Initial Year:

No additional State expenditures are needed.

Long Term:

No additional State expenditures are needed.



River Recreation

Recommendation #14

**The state should develop a management program for designated recreation rivers to ensure proper resource use and to protect private property rights.**

Discussion

Following an evaluation process to identify appropriate river reaches for recreation use, a management plan would be developed for each designated recreation river. A river management plan would address various management concerns such as access sites, portage areas and protection of the river environment. Voluntary easements and landowner agreements would be utilized to facilitate implementation of the management plan.

Legislation

No legislation is needed.

Estimates of State  
Financial Requirements

Initial Year:

\$57,000

Long Term:

\$45,000 annually. Additional funds may also be needed for river development costs.

STATE OF KANSAS



John Carlin, Governor

KANSAS WATER OFFICE  
Joseph F. Harkins  
Director

Suite 200  
109 SW Ninth  
Topeka, Kansas 66612-1215  
913-296-3185

January 17, 1986

Joint Committee on Energy  
and Natural Resources  
5th Floor, Statehouse  
Topeka, KS 66612

Re: Kansas Water Plan-Summary of Recommendations

Dear Committee Members:

There are a few errors in the table on page four of the Summary of Recommendations you received yesterday for the 1986 Kansas Water Plan. I have attached a corrected version of page four. This should be inserted into the summary, and the old page four, discarded.

If you have any questions regarding the summary of recommendations, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Stephen A. Hurst".

Stephen A. Hurst  
Water Resource Planner

SAH:bk1  
Attachment

*new page 4. inserted, old page attached  
here to.*

## Minimum Desirable Streamflows

Recommendation #2  
(to be added to  
last year's  
recommendations)

The state should identify minimum desirable streamflows on those streams with sufficient opportunity to achieve such streamflows and with real needs to be protected from future appropriation of water.

### Discussion

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### Legislation

Legislation is needed.

### Estimates of State Financial Requirements

Initial Year:                   \$132,000  
  
Long Term:                       \$200,000 annually

**Recommended Minimum Desirable Streamflows (cfs)—1986**

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<sup>b</sup> Subject to the stateline flows contained in the Blue River Compact.

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