

Approved 4-1-86
Date

MINUTES OF THE SEBATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Merrill Werts at
Chairperson

8:00 a.m./~~p.m.~~ on MARCH 25, 1986 in room 123-S of the Capitol.

All members were present except:
Senator Yost - Absent

Committee staff present:
Ramon Powers - Research
Don Hayward - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:
Joe Harkins, Kansas Water Office
David Pope, Board of Agriculture, Water Resources

Motion was made by Senator Kerr to approve minutes of the March 18, 19 and 20, 1986, seconded by Senator Langworthy. Motion carried.

Chairman Werts stated that testimony to be given by conferees on the bills scheduled for hearing will concern all three bills as they are so closely related.

HB 2704 - Relating to large reservoir projects

HB 2705 - Relating to a water assurance program

HB 2720 - Relating to the State Water Plan

Joe Harkins testifying from written testimony, addressed all three bills since they are closely related in implementation of the Water Plan. (Attachment A). Using a visual aid, Mr. Harkins stated the basic purpose of HB 2704, 2705 and 2720 is to implement the large reservoir management section of the State Water Plan, which recently is identified as the Water Assurance Program. Explanation was given as to how major productivity from large federal reservoirs can be obtained during low flow periods and droughts. Mr. Harkins reviewed for the committee the stages of development as outlined in the Water Plan, also the rights and restrictions of water users. The interbasin transfer mechanisms were discussed in detail by Mr. Harkins.

HB 2705 gives authorization to the State Water Office to establish a water assurance program in collaboration with municipalities and industrial users with contracts formed between them for operating reservoirs at critical periods of water flow. The Committee was reminded of the four million dollar escrow account already approved by the Ways & Means Committee for implementation of this program. Approval must be given by the Legislature for purchase of federal supply storage with revenue bonds.

The Water office is preparing some technical amendments to HB 2704 and 2705, which will be discussed when all testimony has been given.

David Pope testified HB 2704 will require the Kansas Water Office to consider control storage in federal reservoirs by purchase and will also give the Water Office the authority to acquire water reservation rights to store water in the conservation storage water quality capacity of any reservoir, an expansion measure from the current water supply capacity. The duties and authority of the Chief Engineer relating to acquisition and use of water storage as referred to in this bill were discussed. Mr. Pope stated the intent of lines 133 and 188 of HB 2705 is to clarify organization of a water assurance district, which must include at least 50% representation of eligible water right holders. (Attachment B).

As all conferees were not heard at this meeting, hearings will continue on HB 2704, 2705 and 2720 at the next meeting.

Meeting adjourned.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Guest List
3/25/86

David L. Pope	Division of Water Res. KSBA	Topeka
Tom Sales	Kansas Water Office	Topeka
Joe HARKINS	KW D	
Bill Anderson	14 Section, AWA	Mission
R.L. Chandler	Water Dist No 1 of So Co Kansas River Alliance	Mission
CR Duffy	Kansas Water Office	Topeka
Ed Remert	KS League Women Voters	Topeka
Judy Kueger	14/DOA	Topeka
Richard E. Rolf	DWR-KSBA	Topeka
Ken Kern	State Conservation Commission	Topeka
Kevin Davis	League of KS Muni	"
Bill Henry	Kansas Engineering Soc.	Topeka
George Barke	KS Consulting Engrs.	Topeka
Ruth Wilkin	Subd and Comm	Topeka
Rich McFee	Kansas Lumber Assoc.	Topeka

Testimony on H.B. 2704, 2705 and 2720

Large Reservoir Management - Water Assurance Program

I. Purpose:

- A. To obtain maximum productivity from large federal reservoirs during periods of low flow in four river systems:
 - 1. Kansas
 - 2. Marais des Cygnes
 - 3. Neosho
 - 4. Verdigris
- B. To assure municipalities and industries using these rivers that water will be available during drought conditions.

II. H.B. 2705 Authorizes:

- A. The State Water Office to establish a water assurance program which involves the design of operating systems on each river to obtain maximum efficiency during low flow conditions.
- B. Authorizes municipalities and industries to form an assurance district in each river system.
- C. Authorizes the Kansas Water Office and each assurance district to negotiate a contract for operating reservoirs during low flow conditions to provide supplemental releases.
- D. Creation of a district is a local option in each river basin.

III. H.B. 2704 Authorizes:

- A. The Kansas Water Office to issue revenue bonds for purchase of storage needed to implement the program in each basin. Income from agreements between assurance districts and the Kansas Water Office will be used to pay off the bonds, thus, avoiding the use of general revenue funds to support the program.
- B. Authorizes establishing water reservation rights for water used from reservoirs to maintain quality of water in the rivers during low conditions.

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IV. H.B. 2720

- A. Requires contracts prior to purchase of additional public storage.

Current law requires any existing or proposed reservoir to be included in the Table of Reservoirs or Watersheds contained in K.S.A. 82a-938 and K.S.A. 82a-939 prior to the state contracting for the purchase of water supply storage from such reservoirs. The State Water Plan recommends that these tables be repealed and that the state not be authorized to purchase additional water supply storage from reservoirs unless the reservoir is identified in the State Water Plan and some responsible person has contracted for the use of a substantial portion of the storage. House Bill 2720 would implement this recommendation in the State Water Plan.

- B. Transfers "Assistance for Payments of Land Rights Program."

The Kansas Water Office currently administers a program which provides financial assistance for payment of land rights for certain water development projects. This program is managed in context with the state's overall watershed development program. The State Conservation Commission currently administers all other watershed programs dealing with financial assistance. Intent of these amendments is to transfer the administration of this existing program from the Kansas Water Office to the State Conservation Commission.

V. Memorandum of Understanding Between the State and Department of the Army:

- A. Agreement has been reached with the federal government for the implementation of this program.
- B. The agreement provides the state the opportunity to purchase space at the original cost of construction! This is a major (and only) exception the federal government has made to their pricing policy. Otherwise, the cost would be three times the negotiated price.
- C. The agreement will be effective for ten years, beginning on July 1, 1986, provided the state places \$4 million in a state fund (the existing Water Resources Development Fund) by July 1, 1986.
- D. The Governor has proposed transferring \$2.8 million into this fund which, combined with its current value, will meet the earnest money condition. NOTE: The funds will not be spent in FY 1987 and can be returned to the General Fund after bonds are sold.

STATEMENT OF DAVID L. POPE
CHIEF ENGINEER-DIRECTOR
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE

TO SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
HOUSE BILL NOS. 2704 AND 2705
MARCH 25, 1986

Thank you, Chairman Wertz, and members of the committee for this opportunity to appear relative to House Bill Nos. 2704 and 2705.

Both of these bills have been introduced to implement sections of the State Water Plan adopted by the Kansas Water Authority (KWA).

The Kansas Water Office (KWO), the Division of Water Resources (DWR), Legislative Research, and the Revisor's Office have met on several occasions last year to discuss the bills which you now have before you.

House Bill No. 2704

House Bill No. 2704 amends the State Water Planning Act to require the KWO to consider, "the need of the state to control storage in federal reservoirs by purchase or agreement" when doing water planning for the state. (Line 66 through 67).

The bill would also strengthen the state's policy to develop adequate water storage by acquisition from the Federal Government of storage in federal reservoirs and by agreements with the Federal Government regarding the use of storage. (Lines 106 through 109).

The main thrust of the bill, as it affects the DWR, is to allow the KWO to acquire a water reservation right to store water in the conservation storage water quality capacity of any reservoir in which the state controls storage space, whether under contract with the Federal Government or otherwise. This is an expansion of the water reservation right concept which currently allows water

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to be stored under water reservation rights only in the conservation storage water supply capacity.

The Bill, as proposed, provides that the annual amount of water which can be stored in the conservation storage water quality capacity is an amount equal to the volume of the conservation storage water quality capacity, as agreed upon by the Director of the KWO and the Chief Engineer.

It would then become the duty of the Chief Engineer to process such filings for water reservation rights by the KWO and then to protect inflows to these reservoirs, above certain threshold levels, in accordance with Kansas Water Law as necessary to satisfy such water reservation rights. This threshold concept is important because it should allow relatively small direct flow rights to divert from the stream during low flows, but it provides protection for the storage of water quality water in the reservoirs against large future depletions of streamflow.

The DWR feels that House Bill No. 2704 will implement the policies set forth in the State Water Plan, as adopted by the KWA, concerning acquisition of water reservation rights by the KWO to allow the protection of water quality storage in such federal reservoirs.

House Bill No. 2705

House Bill No. 2705 would provide the authority to create a water assurance district.

Briefly stated, a water assurance district would be comprised of current, and perhaps future, water right holders for municipal and industrial purposes, which are located downstream from a reservoir holding water for water assurance purposes.

"If a water assurance district is organized, participation in the water

assurance program shall be mandatory for each eligible water right holder below an assurance reservoir if the chief engineer determines that such holder may be benefited by releases of assurance water from an assurance reservoir." (Line 69 through 73).

The proposed bill would require the chief engineer, upon request of the KWO and prior to the organization of an assurance district, to determine which water right holders below the reservoir in question might benefit from the proposed assurance program. The chief engineer shall take into account the following factors, "(a) the annual quantity and rate of diversion authorized by the water right and the frequency and the distribution of such use with time; (b) the consumptive use, location and source of the water right; and (c) such other factors as may be necessary to fully determine and understand the degree of such benefits." (Lines 62-68).

Those benefited could include both surface and groundwater users who are municipal and industrial users. Currently, the federal reservoirs under consideration for the program contain no authorized storage space for any other beneficial uses, such as irrigation, water power, etc. As a result, any users other than municipal and industrial users would not currently be eligible for the assurance program.

During times of shortage on the river, when there is not sufficient water to satisfy all water right holders, assurance water would then be released from the reservoir for the benefit of those members of the assurance district. It would be the duty of the chief engineer to protect those releases from diversion by non-assurance district members. Other users of water would be limited to the amount of water available from the natural flow of the stream in accordance with the provisions of their direct flow water rights.

Lines 319-323 should be amended to read, "No member below a reservoir shall

divert water from releases of assurance water unless the member has a conservation plan approved by the Kansas Water Office, in consultation with the chief engineer, pursuant to Substitute for House Bill No. 2703, new Section 7, Lines 403-412."

For many years, water users of all types below federal reservoirs have been getting the benefits of the release of water stored at state or federal expense. However, these benefits may not continue indefinitely under the current program. The assurance program will improve the water supply dependability for municipal and industrial users who are members of an assurance district. Since all other types of water users will not be able to participate in the assurance program under current federal storage allocations and provisions of this legislation, some water users currently using storage releases may not be allowed to divert water during periods of low flow, as has been the current practice.

If you have any questions concerning this testimony, I would be happy to answer them at this time.