

Approved 2-10-87
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

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

8:00 a.m./~~p.m.~~ on January 30, 1987 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:
Jerry Coonrod, Kansas Gas & Electric
Kevin Davis, League of Municipalities
John Woodman, Kansas City Power & Light
Mike Stewart, Kansas Wild Turkey Federation
Ken Kern, State Conservation Commission
Rob Hodges, Kansas Chamber of Commerce & Industry
Bill Fuller, Kansas Farm Bureau
Rick McKee, Kansas Livestock Association

Hearings continued on:

- SB 39 - Relating to obstructions in streams
- SB 40 - Relating to water projects environmental coordination
- SB 41 - Relating to minimum desirable streamflows
- SB 42 - Concerning Conservation Easements
- SB 51 - Relating to conservation structure

Mike Stewart spoke briefly regarding the natural habitat of wild turkey flocks which is centralized along stream riparian areas. Mr. Stewart emphasized that conservation of these areas is crucial to the survival of the flocks.

Jerry Coonrod stated a concern KG&E has regarding SB 42 is the ability or right to cross a conservation area with transmission lines. Endorsement of the amendment proposed by Southwestern Bell was expressed. An addition to the amendment was requested and Mr. Coonrod was asked to submit a copy of the amendment to the committee. (Attachments A & B).

Kevin Davis stated the League is basically in favor of the principal of SB 42, but has a concern regarding the language in certain sections of the bill. The League is in favor of adoption of the amendments proposed by the utility companies and would prefer language more closely in line with that of Wash-inton state law. (Attachment C).

John Woodman testified to the same concerns given by other utility companies and proposed an amendment with language modification. (Attachment D).

Ken Kern presented testimony on SB 51. The role of the Conservation Commission in Riparian and Wetlands Protection was outlined. (Attachment E). Program development, rules and regulations and guidance of conservation districts was highlighted.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m./~~a.m.~~^{p.m.} on January 30, 1987.

Rob Hodges stated the consensus seems to be that SB 42 should be amended to more closely resemble the Washington state law and the KCCI would support changes as the bill is now written. This statement amends previous written testimony given to the committee.

Discussion was held regarding the Washington state law for clarification of committee members.

Bill Fuller testified in opposition to SB 41 stating the addition of nine streams to meet minimum streamflow requirements is a serious concern as conservation practices may be discouraged and loss of water rights is a possibility. Mr. Fuller endorses delay of any new designations until effects of previous designations are determined. There needs to be expansion of terraces, waterways and contour farming. (Attachment F).

Rich McKee gave testimony opposing SB 41 stating the KLA feels the regulation asks for more water runoff and further establishment of new minimum streamflows will have no effect on water released from upstream states. There is some concern regarding which water rights granted after April 12, 1984 would be affected by minimum desirable streamflow laws. (Attachment G).

As there were no additional conferees to be heard on the bills under consideration, the hearings were concluded.

Committee members were asked to note additional written testimony on the bills which will be entered in the permanent record. Mike Theurer, Fish & Game Commission (Attachment H); Paul Grahovac, ProSoCo, Inc. (Attachment I); Randy Rodgers, Wildlife Society (Attachment J); Ruth Welti (Attachment K); & Dean Wilson, Sierra Club (Attachment L).

Motion was made to recommend favorably SB 51 by Senator Martin, seconded by Senator Langworthy. Motion carried.

Don Hayward clarified for committee members a technical amendment for SB 39.

Motion was made by Senator Feleciano, seconded by Senator Vidricksen, to adopt the recommended amendment to SB 39. Motion carried.

Motion was made by Senator Feleciano, seconded by Senator Langworthy to recommend favorably SB 39 as amended. Motion carried.

Motion was made by Senator Vidricksen, seconded by Senator Hayden to recommend favorably SB 40. Motion carried.

Motion was made by Senator Feleciano, seconded by Senator Langworthy that SB 41 be recommended favorably. Motion carried by hand count.

Discussion by the Committee on SB 42 regarding proposed amendments offered by the utility companies concerned incorporating language to preserve the right of eminent domain.

Motion was made by Senator Feleciano, seconded by Senator Thiessen, to amend SB 42 as suggested by Southwestern Bell. Motion carried.

Motion was made to adopt SB 42 as amended by Senator Feleciano, seconded by Senator Martin.

Discussion by the Committee concerned the language of SB 42 and that of the Washington state law. Senator Hayden made the substitute motion to table SB 42 until Friday, February 6, 1987. Motion was withdrawn.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m./~~a.m.~~^{p.m.} on January 30, 1987

Chairman Werts requested Don Hayward to draft the Washington state law into a form relating to Kansas law. Senator Vidricksen suggested the Committee see a draft of Washington state law as written to compare with SB 42. The Committee supported this proposal. Senator Feleciano withdrew his motion.

Senator Kerr made the motion requesting a bill be drafted of the Washington state law. Motion withdrawn after further discussion.

Meeting adjourned. The next meeting will be February 3, 1987.

1-30-87
 Guest List

Rob Hodges	Topoka	KCCI
Tom Stiles	Topoka	KWO
Sharil Wilson	Topoka	KNRC
Ed Reinert	"	KLWVs
Stephen Hunt	"	KWO
Kenny Luedel	"	"
Jerry Cooney	"	KGE
Ten Ten	"	SCC
Don Snelton	"	KDHE
Kevin Davis	"	League of Ks Munic
Richard McKee	"	Kansas Forest Assoc
Dud Taylor	"	DNR, VERA
Joe Kabaugh	"	Ks Livestock Assn
Rick Kready	"	KPL Gas Service
Tom Taylor	Topoka	KPL Gas Service
TREVA POTTER	TOPEKA	Peoples NATI GAS
RON CACHES	WICHITA	BMAC
Buo Grant	"	KCCI
Ken Schmitt	Topoka	Ks. RURAL CENTER

0081 easement may be prohibited or restrained by injunctive relief
0082 granted by any court of competent jurisdiction in a proceeding
0083 initiated by the grantor, such grantor's heirs, successors or as-
0084 signees, or by the owner of the easement.

0085 (c) In addition to the remedy of injunctive relief, the owner of
0086 a conservation easement shall be entitled to recover monetary
0087 damages for injury thereto or to the interest to be protected
0088 thereby. In assessing such damages, there may be taken into
0089 account, in addition to the cost of restoration and other usual
0090 rules of the law of damages, the loss of scenic, aesthetic and
0091 environmental values.

0092 Sec. 5. Real property subject to one or more conservation
0093 easements shall be subject to assessment and taxation or exemp-
0094 tion therefrom in accordance with general laws applicable to the
0095 assessment and taxation of interests in real property.

0096 Sec. 6. No interest in real property cognizable under the
0097 statutes, common law, or custom in effect in this state prior to
0098 July 1, 1987, nor any lease or sublease thereof at any time, nor
0099 any transfer of a water right or any change of a point of diversion
0100 at any time shall be impaired, invalidated or in any way ad-
0101 versely affected by reason of any provision of this act. No provi-
0102 sion of this act shall be construed to mean that conservation
0103 easements were not lawful estates in land prior to July 1, 1987.

0104 ~~Sec. 7. This act shall take effect and be in force from and~~
0105 after its publication in the statute book.

Sec. 7. Notwithstanding any other provisions hereof, utilities
shall not be prevented hereunder from obtaining easements on
property subject to a conservation easement for purposes of
placing and maintaining underground or buried utility
facilities and associated connecting boxes and similar hardware,
~~XXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX~~

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Sec. 8 This act shall take effect and be in force

AA.

1-30-87
Zachary

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meander line and water's edge. v. Nelson (1983) 35 Wash.App. P.2d 682.

der lines" are the waterside lines of government lots, consisting of short, straight lines approximate curved edge of body. Thomas v. Nelson (1983) 35 Wash.App. 868, 670 P.2d 682.

which uses meander line as one boundaries conveys to the water, there is clear indication that par- deed intended that meander line be actual boundary. Thomas v. Nelson (1983) 35 Wash.App. 868, 670

Description of right-of-way con- deed, granting county strip of "on each side of line of said surveyed," was insufficient reference was made to specific there was evidence a survey- locate the property, given contained in deed. Sparks v. County (1985) 39 Wash.App. P.2d 588.

Effect

eking to enforce prior judg- specifically decreed that title was free from restric- by contract, could not re- rney's fees under clause in warding attorney's fees in any on to enforce any covenant of Brister v. Council of City of (1980) 27 Wash.App. 474, 619

Quitclaim deed can convey as est in property as warranty or has its origin in form of d will not be given same warranty deed executed as one transaction. Carlson v. (1983) 35 Wash.App. 27, 472 P.2d

quired interests in real proper- ow to a grantee pursuant to or specific language in a deed, include all after-acquired tive of how or when it is Stevens v. Stevens (1974) 10 Wash.App. 493, 519 P.2d 269.

wherein prospective purchas- specific performance of ear- agreement to purchase resi-

dence, evidence supported trial court's conclusions that there was valid earnest money agreement, that although closing date had passed it was extended by the conduct of the parties, that vendor had breached the agreement by failing to provide clear title and should be re- quired in equity to quitclaim any interest it had to purchasers, and that purchas- ers did not possess the property as ten- ants. Streater v. White (1980) 26 Wash. App. 430, 613 P.2d 187.

First purchaser did not have any right, title, or interest in property based upon stipulated judgment with second purchasers, notwithstanding that judg- ment provided that any rights second purchasers had in contract belonged to first purchaser, where at time of entry of stipulated judgment second purchas-

ers had no interest to give to first pur- chaser because they had transferred their vendee's and vendor's interests to others. Sofie v. Kane (1982) 32 Wash. App. 889, 650 P.2d 1124.

Where quitclaim deed was delivered to an attorney, not to grantee, and was not to be effective unless grantee's mother predeceased her mother, which did not happen, there was no delivery since there was no intent to make present transfer; thus, quitclaim deed could not pass title. Bull v. Fenich (1983) 34 Wash.App. 435, 661 P.2d 1012.

Quitclaim deed conveys all then exist- ing legal and equitable rights of grantor in described property. Hackler v. Hack- ler (1984) 37 Wash.App. 791, 683 P.2d 241.

64.04.070. After acquired title follows deed

Notes of Decisions

After-acquired interests in real prop- erty which flow to a grantee pursuant to this section or specific language in a

quitclaim deed, include all after-acquired title irrespective of how or when it is acquired. Stevens v. Stevens (1974) 10 Wash.App. 493, 519 P.2d 269.

of riparian and wetland areas

64.04.130. Interests in land for purposes of conservation, protection, preservation, etc.—Ownership by state, political subdivi- sion, or nonprofit nature conservancy corporation—Con- veyances

A development right, easement, covenant, restriction, or other right, or any interest less than the fee simple, to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land, whether the right or interest be appurtenant or in gross, may be held or acquired by any state agency, county, city, town, or metropolitan municipal corporation, or non- profit nature conservancy corporation. Any such right or interest shall constitute and be classified as real property. All instruments for the conveyance thereof shall be substantially in the form required by law for the conveyance of any land or other real property.

or federal

As used in this section, "nonprofit nature conservancy corporation" means an organization which qualifies as being tax exempt under 26 U.S.C. section 501(c)(3) (of the United States Internal Revenue Code of 1954, as amended) as it existed on June 25, 1976, and which has as one of its principal purposes the conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; or the conserving of natural areas including but not limited to wildlife or plant habitat.

riparian and wetland areas for

Added by Laws 1979, Ex.Sess., ch. 21, § 1, eff. April 19, 1979.

Cross References

Acquisition of open space, etc., land or rights to future development by coun- ties, cities, metropolitan municipal cor- porations or nonprofit nature conservancy

corporation or association, see §§ 84.34.200 to 84.34.250.

Library References

Property § 1. C.J.S. Property § 1 et seq.

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Notwithstanding any other provisions hereof,
utilities shall not be prevented hereunder from
obtaining easements on property subject to a
conservation easement for purposes of placing
and maintaining utility facilities and associated
hardware.

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1-30-87



State Conservation Commission

109 S.W. 9th Street, Room 300

Telephone (913) 296-3600

Topeka, Kansas 66612

SENATE ENERGY AND NATURAL
RESOURCES COMMITTEE
Senate Bill 51
January 27, 1987

TESTIMONY BY
KENNETH F. KERN
EXECUTIVE DIRECTOR

The State Conservation Commission's role in the Riparian and Wetlands Protection Program is:

1. PROGRAM DEVELOPMENT: Gather information and work with local, state and federal entities to develop a state protection program. Entities are:
 - a. Conservation districts and association
 - b. Fish and Game Commission
 - c. State and Extension Forestry
 - d. Soil Conservation Service
 - e. Division of Water Resources, State Board of Agriculture
 - f. Department of Health and Environment
 - g. Kansas Biological Survey
 - h. Kansas Water Office
2. DEVELOPMENT OF RULES AND REGULATIONS: These will provide standard guidelines for conservation districts and include:
 - a. Assignment of responsibilities
 - b. Development of district program
 - (1) Contents of a district program
 - (a) Description of the resources
 - (b) Identification of specific problems and goals
 1. Background information
 2. Analysis and evaluation
 3. Establishment of priorities

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7 (c) Program plan requirements

1. Technical assistance
2. Financial assistance
3. Educational program

7 (d) Implementation

1. Applicable local, state and federal programs
2. Timetables to accomplish program goals

(e) Monitoring and evaluation

c. Provisions for public meeting before adoption of district program.

3. GUIDANCE AND TRAINING: To conservation districts for the development, implementation and evaluation of district programs.
4. EVALUATION: Review and evaluate district programs.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: S.B. 41 - Adding Streams to be Covered by the Minimum Desirable Streamflow Provisions

January 28, 1987
Topeka, Kansas

Presented by:
Bill R. Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of Public Affairs for Kansas Farm Bureau. I am speaking on behalf of the farmers and ranchers who are members of the 105 county Farm Bureaus. We appreciate this opportunity to express our opposition to S.B. 41 which adds nine Kansas streams to the list of rivers and streams that must meet minimum desirable streamflow requirements.

Let me indicate to you that agriculture, the largest user of water in Kansas, is vitally concerned with every aspect of water law in the state. In fact, the voting delegates at our last Annual Meeting of Kansas Farm Bureau adopted a number of policy positions on Kansas water issues. Included was this policy statement:

Water Quality Standards

We recognize the need for reasonable standards to protect and maintain the quality of our surface waters and groundwater. Establishment of "minimum desirable streamflows" **is not** the solution to water quality problems. **We oppose additional minimum streamflow designations.**

We urge the Kansas 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.

Fuller
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As you recall, Kansas Farm Bureau has opposed the establishment of minimum desirable streamflows since the concept was recommended to the Legislature by the Kansas Water Authority in 1984. Today we oppose expanding the number of streams that must meet these minimum requirements.

Kansas farmers and ranchers are concerned about how government is going to make water flow in streams and rivers where little or no water exists today. We hope the proposal is to protect the water that exists in Kansas rivers and streams today. However, KFB members are concerned and fearful that somewhere in this process of designating more minimum streamflows, the bureaucracy may discourage the use of conservation practices in order to make water flow. We believe it is extremely important that terraces, waterways, contour farming, and minimum tillage be continued and expanded to conserve soil and water. Any other action would be counterproductive, not only to agriculture, but to every citizen.

Another reason Kansas farmers fear expanding minimum desirable streamflow designations concerns the possibility of losing water rights? Water rights are considered property rights. The loss of water rights will decrease the value of a farmer's land because such rights are directly related to land productivity.

Farm Bureau members were somewhat encouraged by the statement Tom Stiles, representing the Kansas Water Office, made to the Resolutions Committee at the KFB Annual Meeting on November 29,

1986, when he indicated, "The goal of minimum streamflows is simple: prevent over-appropriation." However, the farmers and ranchers of Farm Bureau recognize the fact other interest groups are involved in shaping public policy for Kansas ... and we feel some do not adequately recognize the needs of agriculture. A Kansas Wildlife article entitled: "The Four Deadly Sins" written by Bill Layher of the Kansas Fish and Game Commission is an example that reinforces our members' concerns, "...The Arkansas River is probably the most notable of all dewatered streams in the United States ... Groundwater pumping in Kansas has eliminated any flows that might have been produced along the stream ... Land practices have prevented almost all runoff in Western Kansas."

"Streamflows in the Smoky Hill River have been reduced by the effects of soil and water conservation practices and groundwater pumping." This statement in the Basin Section of the Water Offices' own Kansas Water Plan also fuels the fears of our farmers and ranchers. (214)

Additional KFB policy states: "We believe any legislation that is enacted, or any environmental regulations which are proposed for promulgation must be based on:

1. Factual Information;
2. Scientific Knowledge; and
3. Economic Impact Studies."

We believe additional minimum streamflow designations should be put on hold until we know the effect of the designations already enacted in 1984 and 1985 ... especially since these

streamflows have not been tested yet during a time of widespread drouth conditions.

In closing, I must repeat that KFB policy opposes the establishment of additional watercourses for minimum desirable streamflow designations. We supported this Committees' action to not recommend this proposed legislation for passage last session. We are encouraged by the action of the Special Interim Committee on Energy & Natural Resources which, without recommendation, requested introduction of the 1986 Water Plan bills not enacted last session. We respectfully ask you to vote NO on this proposal again ... this time S.B. 41. } 337

Thank you for this opportunity to express our concerns. I will attempt to answer any questions you may have.



2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT
OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
COMMITTEE
ON ENERGY AND NATURAL RESOURCES
SENATOR MERRILL WERTS, CHAIRMAN
WITH RESPECT TO SB 41
MINIMUM DESIRABLE STREAM FLOWS
PRESENTED BY
RICH MCKEE
EXECUTIVE SECRETARY, FEEDLOT DIVISION
JANUARY 28, 1987

Mr. Chairman, members of the committee, my name is Rich McKee. I am here representing the members of the Kansas Livestock Association. KLA is a state-wide voluntary association of livestock producers. Our association represents cattle, swine and sheep producers. A large percentage of our membership is also engaged in crop production activities. For many years our association has actively participated in the legislative process to represent the best interests of Kansas agriculture in general and the livestock producing segment specifically. We appreciate the chance to appear before your committee to share with you some of our views and experiences relative to Minimum Desirable Stream Flows.

Merrill
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The Kansas Livestock Association opposes SB 41. This bill increases the conflicting signals being sent out by various agencies of both state and national government. For years our members have worked very closely with the soil conservation service in an effort to decrease water runoff from agricultural land. We are proud to say that to a great extent this objective has been met due to the continual efforts of innovative and practical management techniques. The continued request for the establishment of additional Minimum Desirable Stream Flows sends conflicting signals to the farmers and ranchers who nurture and care for the land and water resources they have available. On the one hand, we've placed our best foot forward in working with the soil conservation service to prevent water runoff, while at the same time this proposed bill seemingly asks for more water runoff.

Secondly, stream flow levels are greatly determined by the decisions of our neighboring states on how much water they will release. Establishing Minimum Desirable Stream Flows requirements by Kansas Statute will not have any effect on the amount of water released by states that are "upstream" from Kansas.

In reviewing this proposed bill, our members questioned the basis for these additional minimum stream flow recommendations. Frankly, the concern our membership has is that these proposed additional minimum stream flows seem to be based on the livelihood of fish rather than the citizens of the state. While KLA does not object to the fish population benefiting from the Kansas Water Plan we do not feel that minimum stream flow recommendations should be based primarily on concerns for fish.

Finally, Mr. Chairman, in discussing Minimum Desirable Stream Flows, our members ask, "by enacting this legislation are we denying the right of Kansans to use water only to allow residents of other states to use what we legislate must flow out of our fine state?"

The Kansas Livestock Association appreciates the opportunity to present
it's position to your committee. If there are any questions from the committee,
I would gladly attempt to provide an answer. Thank you.

TESTIMONY presented to SENATE ENERGY & NATURAL RESOURCES COMMITTEE

Chairman: Merrill Werts

Date: January 20, 1987

Subject: Milford Fish Hatchery

Presenter: Mike Theurer, Chief of Fisheries, Kansas Fish and Game Commission

Milford Fish Hatchery is Kansas' first intensive fish hatchery. The other hatcheries located within the state are extensive in nature and utilize earthen ponds for fish rearing. Milford employs new technology and uses a series of raceways which are concrete ditch structures 100' x 8' x 3' deep. This rearing system is most easily equated to a cattle feedlot whereby individuals are crowded in a confined space and carefully raised and observed, thus producing high yields.

Milford is but one of four hatcheries in the state. Our other hatcheries are located at Meade, Pratt and Farlington, and all are extensive facilities. Under the very initial planning stage for a new fish hatchery, consideration was given for the construction of one facility to take care of all fish rearing needs for the state. All other hatcheries under this proposal would have been closed except for the Pratt facility which would have been used for research. The price tag for this proposal exceeded \$18 million. This total price financially exceeded the capabilities of the agency, and the Commission instructed staff to redesign the facility to add to our current fish hatchery system. The new design was estimated at \$6 million.

All hatcheries, including Milford, function together to supply fish for Kansas' management programs. Since all hatcheries function as a unit, fish transfers between hatcheries are essential.

Example:

Largemouth bass may be hatched at our Meade facility, transferred to Pratt to be reared to fingerling size, transferred to Milford for training on an artificial diet, raised to 6" and stocked in one of our state impoundments.

Conversely, walleye hatched at Milford may be transferred to Farlington to be reared to a fingerling size and then stocked in our state waters.

All facilities involved in the final product are vital to insure adequate supply of fish for management needs.

Milford Hatchery construction started in October, 1983, and was "completed" in late 1984; 1985 marked the first full production year. Please refer to the attached reports, sections entitled 1985 Milford Production and 1986 Milford Production. General improvement is noted in 1986 over 1985. Contained also are the 1987 tentative production plans. Currently the Milford Fish Hatchery

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is raising fish although not on a full production schedule. It is a new facility and being so it has a series of pluses and minuses. The apparent pluses have provided us with the capability to:

Perform channel catfish stockings running from early spring through late fall. This is particularly important to the urban areas (Wichita and Kansas City) to maintain adequate supplies of fish under very heavy fishing pressure.

It allows us to sort and mark fish in high numbers to enable us to evaluate their success after stocking. Recently 23,000 short largemouth bass were marked at both the Pratt and Milford facilities for stocking at Glen Elder Reservoir.

Channel catfish can be regularly sorted to size for restocking in various raceways, grouped to one size. This promotes more efficient feeding, better growth and stocking at a preferred size as indicated by the fish manager. When a pond is drained, regardless of the size of all fish, those are the fish available for stocking.

Indications are that overwinter survival for channel catfish is higher, which may result in a decreased demand for spawn taking next spring.

Minuses:

Friendly negotiations for settlement on an insufficient roof has finally been reached.

Our alarm system is currently non-functioning. Negotiations continue.

We have experienced reduced water quality because of nutrient intrusion and massive algal blooms. This has resulted in high ammonia and high pH, which may, at times, interfere with fish growth and survival. During the 1986 production season, water clarity was not sufficient to pellet train largemouth bass, so that program was not implemented and was delayed one year. Generally, the summer of 1986 was a good channel catfish production season.

Steps taken thus far to address these minuses include:

A contract study with the Biological Survey addressing water quality problems at the Milford Fish Hatchery. This report is due by February 1, 1987. Preliminary indications from the Survey are that there are no definable chemical problems or definable water quality problems from all the various water sources tested. Preliminary indications are that we do experience degraded water quality at certain times of the production year and also that the Biological Survey's report will contain recommendations to correct the degraded water quality problems.

An alum chemical application was made in the summer of 1986 to attempt to reduce and bind nutrients and algae within the system. It is vital to understand the interrelationships of the water sources present and used at the Milford Fish Hatchery site. Seep water from the Milford Reservoir is collected in the core of the dam. Structures termed "relief wells"

channel this water out of the core into a common canal at the foot of the back side of the dam. The relief wells are an engineering consideration to relieve pressure within the dam structure itself. This one lateral canal is then drained by four "streams" and run into the water supply lake. This source of water contributes approximately 50% of the total water available on the site. The other 50% is by way of ground water contributions to the lake. The Biological Survey has informed us that essentially the waters above and below the dam are the same with only insignificant variations in chemical concentrations. These results are tentative, and decisions will be made on the final report to be issued in February.

Rough fish removal intended to remove nutrients from the system. For details, refer to the Milford Fish Hatchery report, dated September 15-26, 1986. In excess of 75,000 pounds of fish has been removed from this 100 acre water supply lake.

I would like to thank the committee for its time and attention dedicated to the Milford Fish Hatchery, and I would be glad to respond to any questions.



Paul T. Grahovac
General Counsel

January 26, 1987

The Honorable Senator Merrill Werts
Third Floor
State House
Topeka, Kansas 66612

Re: River Recreation and Minimum Stream Flows

Dear Senator Werts:

I am writing as a member of the Kansas Canoe Association to encourage you to support the river recreation legislation that is being proposed by the the Kansas Water Department and the Kansas Fish and Game Commission. Minimum stream flows are necessary to provide for river recreation, and I encourage you to support that legislation as well.

Outdoor recreation opportunities are very limited in Kansas. The controlled management approach proposed in the river recreation legislation is an eminently reasonable accommodation of the diverse interests involved. I and many, many other Kansans spend a great deal of money every year to enjoy the canoeing experience in the state of Missouri. This legislation offers an excellent opportunity to dramatically improve the quality of life in Kansas as well as to gain for some of our rural communities the benefit of recreation revenue which is currently being spent elsewhere.

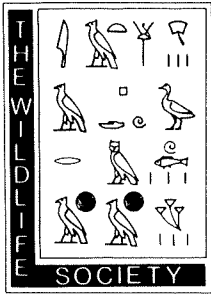
It is my intention to address your committee on these subjects at the hearings on the legislation, along with other members of the Kansas Canoe Association.

I look forward very much to that opportunity.

Very truly yours,

Paul T. Grahovac
General Counsel

PTG/amc



THE WILDLIFE SOCIETY

Kansas Chapter

509 W. 14th
Hays, KS 67601

THE WILDLIFE SOCIETY

January 28, 1987
509 W. 14th
Hays, KS 67601

Senator Merrill Werts
Chairman, Senate Energy & Natural Resource Committee
Kansas Statehouse
Topeka, KS 66612

Dear Senator Werts:

I regret that it has only today come to my attention that your committee is currently holding hearings on proposed legislation which would implement aspects of the State Water Plan. Had I received earlier notification, I would be present at your hearings to support these pieces of legislation.

Our organization represents over 150 natural resource professionals in the state including wildlife managers, range and soil conservationists, foresters, and educators who are concerned with promoting sound stewardship of our natural resources. I would like to emphasize that "sound stewardship" does not mean taking a hands-off approach, but rather implies a level of use which is sustainable.

All of the bills your committee will have considered by the time you see this letter have our support and deserve yours. These include SB 51 (Riparian and Wetland Protection), SB 42 (Conservation Easements), SB 41 (Minimum Streamflows), SB 39 (Stream Alteration), and SB 40 (Environmental Coordination).

All of these bills deserve support, yet I believe our organization is particularly concerned that SB 41 (Minimum Streamflows) be passed this session. It was a genuine tragedy that minimum streamflow legislation was killed during the last session largely because the Farm Bureau mobilized its paid lobbyists to oppose it. In truth, Kansans support the maintenance of flowing streams and, I would add, that includes many members (perhaps a majority) of the Farm Bureau. Had I known of your hearings sooner, I might have brought some Farm Bureau members to Topeka who are rather disgusted with their organization's official stance on minimum streamflows.

Most of your committee members are from central or eastern Kansas, so I would like to put a personal western Kansas perspective on the importance of minimum streamflows legislation. Perhaps you are aware that the Smoky Hill River south of Hays went dry for the first time during the summer of 1983. Of course, that was a dry year, but it has dried up each summer since then and, this year, has remained dry for the first time even during the winter. Perhaps your members are aware that the City of Hays has been actively seeking an

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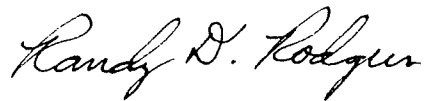
industry to fill the vacated Travenol facility (once employing 750 people), but with no success. I would like to suggest that a major reason that Hays has been unable to attract new business is that prospective companies are afraid of the impending water crisis here. Had minimum streamflows legislation been in effect for the Smoky Hill River, excessive exploitation of its water resources could have been prevented and Hays would be a much more economically attractive community than it is.

Your committee's members must not look at this example as simply Hays' problem. Consider it a warning of what can and will happen in central and eastern Kansas if you fail to act now.

You have a clear choice. Support sound management of our water resources which will promote sustainable use, or do nothing and let our water be sucked away to the last drop so we can produce an even greater surplus of unneeded, uneconomical grain.

I ask that you read this letter into the record for each of the previously mentioned bills and that you make your committee members aware of our strong support for these pieces of legislation. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Randy D. Rodgers".

Randy D. Rodgers
President, Kansas TWS

1124 Woodland Street
Manhattan, KS 66502
January 26, 1987

Senator Merrill Werts, Chairman
Energy and Natural Resources Committee
State Capitol
Topeka, KS 66612

Dear Senator Werts,

I am writing in support of the proposed additions to the State Water Plan. Please include my comments as part of the public record for the hearings taking place this week.

Collectively, Senate Bills 39, 40, 41, 42 and 51 (HB 2035) would create critically needed programs to preserve wetlands, streamside habitats, and streams and rivers in Kansas. All are supported by the Kansas Fish and Game Commission, the Kansas Audubon Council, and other conservation/wildlife organizations. Passage of all bills is important for each of the programs to be effective.

In particular, SB 39 (Kansas Stream Alteration Act) and SB 51 (Wetlands and Riparian Protection Program) are urgently needed in order to preserve what little remains of native streams and wetlands in this state. It has been estimated that 400,000 acres of wetlands are drained or filled annually in this country; this loss cannot continue.

Your position as chairman of the Energy and Natural Resources committee is very important in passage of progressive legislation such as this. Establishment of these programs will be a step toward ensuring that future generations of Kansans can enjoy their natural heritage.

Sincerely,

Ruth Welti

Ruth Welti

cc: Senator Ben Vidricksen, Vice-chairman

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TESTIMONY PRESENTED TO THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

ON SENATE BILL NO. 40

BY

DEAN WILSON
JANUARY 29, 1987

I am a member of the Sierra Club, Topeka Audubon Society's Board of Directors and Conservation Issues Committee member, Kansas Wildlife Federation's Conservation Issues Committee, National Wildlife Federation, Kansas Canoe Association (past president, past chairman of legislative committee), and Riley County Fish & Game Association. I am speaking on behalf of the Topeka Audubon Society. I have followed this part of the Kansas Water Plan for the past 2 years -- from the public meetings, formal hearings, and the Kansas Water Authority's final meetings.

Water development projects can significantly affect fish, wildlife, and other natural resources. We don't have to look far to see what non-cooperation can lead to -- I am speaking of the Black Vermillion River problems.

This bill provides an opportunity for natural resources agencies to have input on water development projects. The bill doesn't prohibit a permitting agency from approving or issuing a permit even if adverse environmental effects will result. The Topeka Audubon Society hopes the permitting agency weighs the benefits against the adverse environmental effects and projects having marginal benefits would not be permitted. We sincerely hope this is the intent of this provision, however, not stated in these terms in the bill.

The Topeka Audubon Society hopes that since this legislation has already passed the public's approval through public informal and formal hearings, that you will pass this legislation out of committee for a full vote of the Senate. Having received all the information on this bill during your committee hearings, when this bill is voted to the full Senate, we hope you will educate your fellow Senators as to what this could mean for our future Kansas generations.

Dean W. Wilson
3509 SE Highland Ave.
Topeka, Kansas 66605
913-266-6591
Topeka Audubon Society

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